

AGENDA
ELK GROVE UNIFIED SCHOOL DISTRICT
Regular Meeting of the Board of Education
Board Room, Education Center
9510 Elk Grove-Florin Road
Elk Grove, CA 95624
June 19, 2012
Closed Session – 5:30 p.m.
Regular Session – 7:00 p.m.

Item

Time – Approximate

Public Comment on Items on Agenda or Not on the Agenda

NOTICE

Cards are available at the table just outside of the Board Room for anyone who wishes to address the Board. If you wish to address the Board, complete a card and hand it to a staff member at the table to the left as you enter the Board Room. Please be sure to complete the card indicating whether the matter you wish to address is on the agenda or not on the agenda. If the matter is on the agenda, we will assume you wish to speak when it comes time to address that item on the agenda and will hold your card until then. Presentations will be limited to a maximum of three (3) minutes, with a total of thirty (30) minutes designated for public comment on an item. Time limitations are at the discretion of the President of the Board of Trustees.

CLOSED SESSION – 5:30 p.m.

- | | | |
|----|---|------------|
| 1. | Public Employee Appointment/Employment: Elementary School Principal, Continuation School Principal, Elementary and Secondary School Vice Principals, and Director of Instructional Support | 15 Minutes |
| 2. | Conference with Real Property Negotiators (Government Code Section 54956.8)
Property: APN 132-0020-165 (at Northwest corner of Gilliam Drive and Dorcey Drive)
District negotiators: Steven M. Ladd, Superintendent and Robert Pierce, Associate Superintendent, Facilities and Planning, Elk Grove Unified School District (EGUSD) and Daniel Maruccia, Lozano Smith
Negotiating Parties: EGUSD and Elk Grove 10 LLC
Under negotiation: Price and terms of payment | 10 Minutes |
| 3. | Conference with Labor Negotiators
Agency designated representatives: Glen De Graw, Richard Fagan, Steven M. Ladd, Karen Rezendes
Employee Organizations: All Elk Grove Unified School District Bargaining Units | 10 Minutes |
| 4. | Evaluation of Superintendent | 20 Minutes |

REGULAR MEETING - 7:00 p.m.

- | | | |
|-----|--|-----------|
| I. | Pledge of Allegiance | 5 Minutes |
| II. | Presentations/Recognitions | |
| | 5. Florin Elementary School Student Recognition: Jesus Alberto Chinchillas Solomon "Albertito" | 5 Minutes |
| | 6. Athletic Recognition – CIF Sac-Joaquin Section Champions | 5 Minutes |

AGENDA
ELK GROVE UNIFIED SCHOOL DISTRICT
Regular Meeting of the Board of Education
June 19, 2012

Page 2

<u>Item</u>	<u>Time – Approximate</u>
III. Budget Update	
7. 2012-13 Budget Update	10 Minutes
IV. Bargaining Units	
V. Reports - None	
VI. Student Expulsion Recommendations	
8. Requests for Student Expulsions	5 Minutes
VII. Board Member Reports	
VIII. Public Comment	
IX. Public Hearing, Discussion and/or Action Items	
9. 2012-13 Budget Public Hearing and Adoption	10 Minutes
10. Public Hearing of the Elk Grove Unified School District's Annual Service Delivery/Budget Plan for Special Education	5 Minutes
11. Procedure to Fill Board Member Vacancy	5 Minutes
X. Discussion Items	
12. Adjustment to School Facilities Fees	5 Minutes
XI. Action Items	
13. Board Policy 1321, Solicitation of Funds From and By Students – Second Reading and Adoption	5 Minutes
14. New Board Policy 5131.2: Bullying – Second Reading and Adoption	5 Minutes
15. Revised Board Policy 5145.3: Nondiscrimination/Harassment/ Intimidation/Bullying – Second Reading and Adoption	5 Minutes
XII. Consent Agenda – Action	5 Minutes
16. Approval of Minutes	
17. Personnel Actions	
18. Resolution of Intention to Grant Authorize Payment of Salary Difference Benefit to Employee Who Has Been Activated for Active Military Duty	
19. Benefit Access and Use Services Agreement	
20. Administrator Contracts	
21. Codification of Superintendent's 403(b) Deferral	

AGENDA
ELK GROVE UNIFIED SCHOOL DISTRICT
Regular Meeting of the Board of Education
June 19, 2012

Page 3

<u>Item</u>	<u>Time – Approximate</u>
XII. Consent Agenda – Action (Continued)	
22. Approval of Purchase Order History	
23. Approval of Warrant Register	
24. Disposal of Obsolete/Surplus Property	
25. Acceptance of Gifts	
26. 2012-13 Head Start Preschool Contract and Resolution	
27. New High School Course	
28. Textbook Approval	
29. Agreement for Special Services, School Services of California	
30. Classroom Modifications at Various Sites, Application #02-112467, Award of Contract-Lease/Leaseback (LB)	
31. Elk Grove Charter School, Public Address (PA) System, Award of Contract	
32. Running Paths and Concrete Work at Various Sites, Change Order No. 1	
33. Approval of Option of One-Year Extension to the Lease Agreement with Bartholomew Associates for a Portion of Elk Grove Shopping Center to Continue the Use for Technology Services and Research and Evaluation Departments	
XIII. Action Items	
34. Discussion and Action on Items Removed From Consent Agenda	5 Minutes
XIV. Information Items	
35. Other Items from the Floor	5 Minutes
36. Items for Future Agendas	5 Minutes
XV. Adjournment	

AMERICAN WITH DISABILITIES COMPLIANCE NOTICE

In compliance with the Americans with Disabilities Act, those requiring special assistance to access the Board meeting room, to access written documents being discussed at the Board meeting, or to otherwise participate at Board meetings, please contact the Board Secretary, Arlene Hein, at (916) 686-7700. Notification of at least 24 hours prior to the meeting will enable the District to make reasonable arrangements to ensure accessibility to the Board meeting and to provide any required accommodation, auxiliary aids or services.

DOCUMENT AVAILABILITY

Documents provided to a majority of the Governing Board regarding an open session item on this agenda will be made available for public inspection in District office located at 9510 Elk Grove-Florin Road, Elk Grove, CA during normal business hours.

ELK GROVE UNIFIED SCHOOL DISTRICT

Agenda Item No: 5

Board Agenda Item

Supplement No. _____

Meeting Date: June 19, 2012

Subject:

Division: PreK-6 Education

Florin Elementary Student Recognition: Jesus Alberto Chinchillas Solomon "*Albertito*"

Action Requested:

The Board of Education is asked to commend and congratulate "*Albertito*" a fifth grade student at Florin Elementary School who took first place at the Northern California Optimist Oratorical Contest on May 6, 2012.

Discussion:

Optimist International is one of the world's largest service clubs throughout the world and the Optimist Oratorical Contest is one of the organization's most popular programs. The contest, held on May 6, 2012, was opened to students under 18 years of age and young Albertito enraptured the audience as he addressed this year's topic, "How my optimism helps me overcome obstacles."

Young Albertito beat out four high school students as he related his powerful personal story of survival, gratitude and reflective instruction on how he was severely burned in a house fire in Mexico when he was three years old.

As the winner of the Optimist Oratorical Contest, Albertito will receive a \$2,500.00 college scholarship. The scholarship will bring him one step closer to his dream of college and the invention of robotic hands for people who do not have fingers. Albertito's inspiring story will also be spread to the world via Internet (YouTube) and a documentary is being produced at the Shiner's Hospital. Albertito is very excited to present his motivational speech to other groups in our community to help change attitudes and bring awareness of the great work that the Shriner's Hospital performs every day.

Florin Elementary is proud of Albertito's positive attitude and his willingness to share and motivate others. He is also quite an artist of whimsical and ferocious sketches of dragons and dinosaurs, despite having no fingers. As a congratulatory gift, staff members of Florin Elementary presented Albertito with a professional art kit to help him produce new masterpieces of art.

We ask that the Board of Education recognize and applaud Albertito as an outstanding example of an exceptional young citizen and future leader that Elk Grove Unified School District is proud to call their own.

Financial Summary

N/A

Prepared By: Dennis M. Cherry

Division Approval: _____

Prepared By: 

Superintendent Approval: 

Board Agenda ItemMeeting Date June 19, 2012

Subject:
Athletic Recognition

Division: Secondary Education

Action Requested:
The Board is asked to recognize CIF Sac-Joaquin Section Champions

Discussion:
The Board is asked to recognize the following Sheldon High School players and coaches, who won their third consecutive CIF Sac-Joaquin Section Division I Softball Championship.

Players:

Alexis Cooper, Rikki Garcia, Amber Glenn, Nikki Miles, MeShalon Moore, Christy Satterlee, Danielle Wiltz, Erika Lane, Anessa Kaylor, Ashlyn Lane, Zamari Hinton, Michaela Russell, Brooke Coyne, Haley Juarez-Viramontes, Jamie Long

Assistant Coaches:

April Russo, Shalan Dundee, John Mendonca, Joe Jaquez

Head Coach:

Mary Jo Truesdale

Financial Summary:

N/A

Prepared By: Jim SmrekarDivision Approval: Christina C. Penna

Prepared By: _____

Superintendent Approval: Steven M. Ladd, Ed.D

Agenda Item No: 7**Board Agenda Item**

Supplement No. _____

Meeting Date June 19, 2012**Subject:**

BUDGET UPDATE

Department: Budget**Action Requested:**

The board is asked to receive a budget update report.

Discussion:

The attached report outlines the current status of the 2012-13 Budget.

Attachment to follow.**Financial Summary:**

Prepared By: _____

Division Approval: Rich Fagan 

Prepared By: _____

Superintendent Approval: Steven M. Ladd, Ed.D. 

ELK GROVE UNIFIED SCHOOL DISTRICT

Agenda Item No: 9
Supplement No. _____
Meeting Date: June 19, 2012

Board Agenda Item

Subject:

2012-13 ADOPTED BUDGET

Department:

Budget

Action Requested:

The Board is asked to hold a Public Hearing and approve the 2012-13 Adopted Budget for all District funds as detailed in the attachment.

Discussion:

The Education Code requires that each school district submit a Board approved Adopted Budget to their respective county office of education by July 1st of each year.

The 2012-13 Budget for the General Fund is consistent with the June 5, 2012 Board report and reflects State revenue limit reduction of \$441/ADA. As previously discussed this level of reductions is recommended to remain financially viable in order to address the potential impact should tax extensions not be approved.

Staff is continuing to monitor actions at the state level, evaluate new information as it is known and will provide reports recommending adjustments to the budget accordingly.

Attachment to follow.

Financial Summary:

See attachment.

Prepared By: Shannon Stenroos

Division Approval:

Rich Fagan

Prepared By: _____

Superintendent Approval:

Steven M. Ladd, Ed.D.

Board Agenda Item

Supplement No. _____

Meeting Date June 19, 2012

Subject:

Department: Student Services

Public Hearing of the Elk Grove Unified School District's Annual Service Delivery/Budget Plan for Special EducationAction Requested:

The Board of Education is requested to hold an open hearing for anyone who wishes to speak to the Elk Grove Unified School District Annual Service Delivery/Budget Plan for Special Education.

Discussion:

The Elk Grove Unified School District's *Special Education Local Planning Agency (SELPA) Plan* was approved and adopted by the Board of Education on March 1, 2011. Annually, each SELPA is required to develop and revise an Annual Service Delivery/Budget Plan as an additional component of their approved local plan. The Annual Service Delivery/Budget Plan includes a description of all the special education services provided by the SELPA, the nature of those services and the physical location of those services. The Annual Service Delivery/Budget Plan also identifies expected expenditures for all items required by the SELPA's service delivery plan.

Financial Summary:

Prepared By: Bill Tollestrup

Division Approval: Mark Cerutti

Prepared By: Bill Tollestrup

Superintendent Approval: Steven M. Ladd, Ed.D.

ELK GROVE UNIFIED SCHOOL DISTRICT

Agenda Item No: 11

Board Agenda Item

Supplement No. _____

Meeting Date June 19, 2012

Subject: Procedure to Fill Board Member Vacancy

Division: Board of Education

Action Requested:

The Board is requested to address the vacancy left by Mrs. Cooper-LeVangie's resignation.

Discussion:

To fill the vacancy left by Mrs. Cooper-LeVangie's resignation as a Board member, the Board needs to address the vacancy.

Financial Summary:

Unknown pending Board's direction.

Prepared By: Steven M. Ladd

Division Approval: Steven M. Ladd, Ed.D., Superintendent

Prepared By: _____

Superintendent Approval: Steven M. Ladd
al

Board Agenda Item

Supplement No. _____

Meeting Date June 19, 2012

Subject:
Adjustment to School Facilities Fees

Division: Facilities and Planning

Action Requested:

The Board is asked to 1) Receive information regarding the May 2012 Development Fee Justification Study/School Facilities Needs Analysis; and 2) Move the item forward for public hearing and adoption at the July 10, 2012, regular Board of Education meeting.

Discussion:

Pursuant to Education Code Section 17620, Government Code Section 65995, and Government Code Section 66016 et seq. the District is required to adopt a Fee Justification Study in order to levy the statutory ("Level 1") school fees on commercial/industrial development recently approved by the State Allocation Board. Pursuant to Education Code Section 17620 and Government Code Sections 65995 et seq., the District is also required to adopt a School Facilities Needs Analysis ("SFNA") in order to justify the levy of alternative school fees ("Level 2 Fees" and "Level 3 Fees") on new residential development.

The May 2012 combination SFNA/Fee Justification Study, prepared by Odell Planning & Research, Inc., calculates the District's new Level 2 fee to be \$4.66 per square foot of new residential development and justifies the District charging the statutory Level 1 commercial school fee of \$0.51 per square foot. Prior to adopting the SFNA/Fee Justification Study, the Board must conduct a public hearing and respond to any comments it receives.

This new Level 2 rate of \$4.66 per square foot represents an increase of \$0.34 over the current rate of \$4.32 per square foot. The increased fee is a result of an increase in the amount of the state's school construction cost allowance, higher site acquisition costs and a slight increase in our student yield factors. These factors were mitigated by a slight increase in the average square footage of residential units, which kept the fee from increasing further. To put this into perspective, based upon the proposed new rate, the school impact fee for the construction of a new 2,500 square foot home in our district would go up from \$10,800 to \$11,650.

The District's May 2012 SFNA/Fee Justification Study is attached and was made available for public review beginning on, June 8, 2012, as required by law for the adoption of alternative school fees. In addition to the public noticing required by law, staff has also forwarded a copy of the SFNA/Fee Justification Study to the North State Building Industry Association (BIA) for their benefit and input.

It is recommended that, on July 10, 2012, the Board conduct a public hearing and review, consider, and adopt the findings contained in the proposed Resolutions approving the May 2012 School Facilities Needs Analysis/Fee Justification Study and adopting the statutory fee for commercial and industrial development and the increased Level 2 and Level 3 Fees for residential development identified therein.

School facilities fee adjustments are not subject to the provisions of the California Environmental Quality Act.

Financial Summary: N/A

Prepared By: Kim Williams *KW*

Division Approval: Robert Pierce *RP*

Prepared By: Bill Heinicke *BH*

Superintendent Approval: Steven M. Ladd, Ed.D. *SMJ*

RESOLUTION NO. 57

**A RESOLUTION OF THE GOVERNING BOARD OF THE
ELK GROVE UNIFIED SCHOOL DISTRICT APPROVING
THE INCREASE OF STATUTORY SCHOOL FEES
IMPOSED ON RESIDENTIAL, COMMERCIAL AND
INDUSTRIAL DEVELOPMENT PURSUANT TO
EDUCATION CODE SECTION 17620 AND GOVERNMENT
CODE SECTION 65995**

WHEREAS, the Governing Board ("Board") of the Elk Grove Unified School District ("District") provides for the educational needs for students in grades K-12 within the City of Elk Grove ("City"), the City of Sacramento, the City of Rancho Cordova, as well as the unincorporated areas of Sacramento County ("County"); and

WHEREAS, Education Code Section 17620 et seq. and Government Code Section 65995 authorize the governing board of any school district within the State of California ("State") to levy a fee against new residential, commercial and industrial development projects within the school district for the purpose of funding the construction and reconstruction of school facilities; and

WHEREAS, the Board has previously adopted and imposed statutory school fees in the amount of \$.47 per square foot of new commercial and industrial development in accordance with the fee justification study previously adopted by the District ("Statutory School Fees"); and

WHEREAS, pursuant to Government Code Section 65995(b)(3), the State Allocation Board, at its January 25, 2012, meeting, increased the maximum amount of the Statutory School Fees to \$.51 per square foot of new commercial and industrial development as provided in Government Code Section 65995(b)(2); and

WHEREAS, the Board has determined that the school facilities of the District continue to operate at overcapacity and that the educational programs are seriously impacted by the increasing student population caused by new commercial and industrial development within the boundaries of District; and

WHEREAS, new development continues to generate additional students for the District's schools and the District is required to accommodate such students; and

WHEREAS, the District does not have sufficient funds available for the construction or reconstruction of school facilities, including acquisition of school sites, construction of

permanent school facilities, and interim school facilities to accommodate students generated from new development; and

WHEREAS, the Board has reviewed, considered, and based its findings on the reports prepared by ODELL Planning & Research, Inc. entitled "Development Fee Justification Study/School Facilities Needs Analysis" ("SFNA/Fee Study") and dated May 2012, which analyzes the District's current school facilities, the estimated number of students which will be generated by new residential, commercial and industrial development within the District, and the estimated costs which will be required to construct permanent school facilities to accommodate the students generated by such new development; and

WHEREAS, the findings in the SFNA/Fee Study demonstrate that the estimated costs of providing school facilities for students generated by new development will exceed the maximum amount of revenue which will be collected from Statutory School Fees levied pursuant to Education Code Sections 17620 et seq., and Government Code Section 65995; and

WHEREAS, the SFNA/Fee Study justifies the District's imposition of Statutory School Fees on new commercial and industrial construction as set forth in this Resolution by analyzing specific categories of commercial and industrial development which were determined to impact the District's school facilities based upon the square footage of the construction, the anticipated number of employees and the number of new students generated by such employees; and

WHEREAS, this Board deems it to be necessary, desirable and in the best interest of the students, teachers, parents and electorate of the District that the Statutory School Fees levied by the District under Education Code Sections 17620, 17623 and Government Code Section 65995 remain at \$.47 per square foot of new commercial and industrial development; and

WHEREAS, the Statutory School Fees levied against new commercial and industrial development will be used to finance school facilities necessary to accommodate students generated from such new development, including but not limited to, acquisition of new school sites, remodeling of existing school facilities, acquiring and installing additional portable classrooms and related facilities in accordance with Education Code Section 17620; and

WHEREAS, the SFNA/Fee Study has been reviewed by the Board and District staff in accordance with the California Environmental Quality Act ("CEQA"); and

WHEREAS, no city or county may issue a building permit for any new residential, commercial or industrial development within the District absent a certification by the District of

compliance by the owner/developer with the requirements regarding school facilities fees as set forth in Education Code Section 17620 et seq., and Government Code Section 65995; and

WHEREAS, the appropriate land use jurisdictions will be notified of the adoption of the SFNA/Fee Study and the increased Statutory School Fees levied by the District; and

WHEREAS, the District (1) has published notice of and made available to the public, at least ten (10) days prior to its public meeting, the SFNA/Fee Study and data indicating the estimated cost required to provide the service for which the increased Statutory School Fees are levied and the revenue sources anticipated to provide the service as demonstrated in the Studies; (2) has mailed notice at least fourteen (14) days prior to this meeting to all interested parties who have requested, in writing, notice of adoption of a fee justification study for the levy of Statutory School Fees pursuant to Government Code Section 65995; and (3) has held a duly noticed, regularly scheduled public meeting at which oral and written testimony was received regarding the SFNA/Fee Study and the proposed increase in Statutory School Fees.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE ELK GROVE UNIFIED SCHOOL DISTRICT AS FOLLOWS:

Section 1. The Board has reviewed the SFNA/Fee Study and hereby adopts the findings contained therein.

Section 2. The Board keeps unchanged the Statutory School Fees levied against all new commercial and industrial development as provided in Government Code Section 65995(b)(2), as follows:

Retail/Service	\$.51
Office	\$.51
Hospitals	\$.51
Light and Heavy Industrial	\$.51
Warehouse	\$.51
Lodging	\$.51
Self-Storage	\$.51

Section 3. The Board has reviewed the SFNA/Fee Study and finds, based upon the SFNA/Fee Study, information and testimony presented in conjunction therein, as follows:

Section 3.1. New commercial and industrial development will result in a substantial increase in student enrollment which will require the District to provide additional school facilities to accommodate new growth, and therefore a reasonable relationship exists between the District's Statutory School Fees, which are necessary to fund the construction and reconstruction of school facilities to accommodate such new growth, and the types of development on which the Statutory School Fees will be imposed.

Section 3.2. New commercial and industrial development will result in a substantial increase in student enrollment which will require the District to provide additional school facilities and therefore a reasonable relationship exists between the District's need for new and reconstructed school facilities and the types of development on which the Statutory School Fees will be imposed.

Section 3.3. Statutory School Fees levied on new commercial and industrial development will be used to finance school facilities necessary to serve students generated from such development.

Section 4. The Board finds that a separate account has been established for the deposit of Statutory School Fee revenue collected from commercial/industrial development and that said account has at all times since been separately maintained, except for temporary investments, from other funds of the District.

Section 5. The Board finds that the funds of the account, described in Section 5, consisting of the proceeds of Statutory School Fees have been imposed for the purposes of constructing and reconstructing those school facilities necessitated by new commercial/industrial development, and that, these funds may be expended for those purposes. The Statutory School Fee revenue may also be expended by the District for the costs of performing any study or otherwise making the findings and determinations required under subdivisions (a), (b), and (d) of Section 66001 of the Government Code. In addition, the District may also retain, as appropriate, an amount not to exceed in any fiscal year, three percent (3%) of the Statutory School Fee revenue collected in that fiscal year pursuant to Education Code Section 17620 for reimbursement of the administrative costs incurred by the District in collecting the Statutory School Fees.

Section 6. The Board hereby establishes a process that provides the party against whom the commercial/industrial Statutory School Fees are imposed an opportunity for a hearing to appeal the imposition of Statutory School Fees on a commercial/industrial development project as required by Education Code Section 17621(e)(2). The appeal process is as follows:

Section 6.1. Within ten (10) calendar days of being notified, in writing, by personal delivery or deposit in the U.S. Mail, of the commercial and industrial Statutory School Fees to be imposed on a particular commercial and industrial project, or within ten (10) calendar days of paying the commercial and industrial Statutory School Fees pursuant to Education Code Section 17620(a)(1)(A), a party shall file a written appeal with the District's Associate Superintendent of Facilities and Planning or his/her designee regarding the imposition of commercial and industrial Statutory School Fees. The party shall state in the written appeal the grounds for opposing the imposition of commercial and industrial Statutory School Fees and the written appeal shall be served by personal delivery or certified or registered mail to the Associate Superintendent of Facilities and Planning or his/her designee.

Section 6.2. The possible grounds for an appeal include, but are not limited to, the inaccuracy of including the project within the category pursuant to which the commercial and industrial Statutory School Fees are to be imposed or that the employee generation or student generation factors utilized under the applicable category are inaccurate as applied to the project.

Section 6.3. The Associate Superintendent of Facilities and Planning or his/her designee shall render a written decision within thirty (30) calendar days following the receipt of the written appeal, unless an extension is agreed to by both parties. The Associate Superintendent of Facilities and Planning or his/her designee shall deliver the written decision by certified or registered mail to the last known address of the party.

Section 6.4. The party against whom the commercial and industrial Statutory School Fees are imposed may appeal to the Board the decision of the Associate Superintendent of Facilities and Planning or his/her designee. Any appeal to the Board must be filed within ten (10) calendar days of receipt of the Associate Superintendent of Facilities and Planning's written decision.

Section 6.5. The party appealing to the Board the decision of the Associate Superintendent of Facilities and Planning or his/her designee shall state in the written

appeal to the Board the grounds for opposing the decision of the Associate Superintendent of Facilities and Planning or his/her designee. The written appeal shall be served by personal delivery or certified or registered mail to the President of the Board.

Section 6.6. The possible grounds for an appeal to the Board of the decision of the Associate Superintendent of Facilities and Planning or his/her designee include, but are not limited to, the inaccuracy of including the project within the category pursuant to which the commercial and industrial Statutory School Fees are to be imposed or that the employee generation or student generation factors utilized under the applicable category are inaccurate as applied to the project.

Section 6.7. Within ten (10) calendar days of receipt of the written appeal to the Board of the decision of the Associate Superintendent of Facilities and Planning or his/her designee regarding the imposition of commercial and industrial Statutory School Fees, the Board Secretary or his designee shall give notice in writing of the date, place and time of the hearing before the Board, to the party appealing the decision of the Associate Superintendent of Facilities and Planning or his/her designee. The Board shall notice and conduct said hearing at the next available regular or special meeting of the Board, provided that the appealing party is given notice at least five (5) calendar days prior to the meeting of the Board. The Board shall render a written decision on the appeal within thirty (30) calendar days following the Board's hearing on the party's appeal, and serve the Board's decision by certified or registered mail to the last known address of the appealing party.

Section 6.8. The party appealing the imposition of the commercial and industrial Statutory School Fees shall bear the burden of establishing that the commercial and industrial Statutory School Fees are improper.

Section 7. No statement or provision set forth in this Resolution, or referred to herein shall be construed to repeal any preexisting fee previously imposed by the District on any residential or nonresidential development.

Section 8. The Board finds and determines that the adoption or imposition of Statutory School Fees in accordance with Government Code Section 65995 is statutorily exempt from CEQA pursuant to Code Section 17621(a).

Section 9. District staff is directed to file a Notice of Exemption with the Sacramento County Clerk's Office.

Section 10. District staff is hereby instructed to work with the appropriate land use jurisdictions to ensure compliance with Education Code Section 17620(b), which provides that no city or county may issue a building permit for any development project within the District without certification by the District of compliance by that development project with the school facilities fee requirements of this Resolution. The Board determines that Statutory School Fees are not subject to Government Code Section 66007, and that a Certificate of Compliance is required, prior to the issuance of any building permit.

Section 11. District staff is hereby instructed to transmit certified copies of this Resolution, accompanied by all relevant supporting documentation including the SFNA/Fee Study and a map of the boundary area of the District subject to the Statutory School Fees, to all appropriate land use jurisdictions issuing building permits within the District, informing each of them of the District's current school facilities fee for development projects.

Section 12. The Statutory School Fees designated herein shall take effect sixty (60) days from the date of this Resolution.

PASSED AND ADOPTED this 10th day of July 2012, by the following vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

President, Governing Board
Elk Grove Unified School District

ATTEST:

Secretary, Governing Board
Elk Grove Unified School District

**A RESOLUTION OF THE GOVERNING BOARD OF THE
ELK GROVE UNIFIED SCHOOL DISTRICT
ADOPTING A SCHOOL FACILITIES NEEDS ANALYSIS AND
ESTABLISHING AND ADOPTING ALTERNATIVE SCHOOL FACILITY
FEES IN ACCORDANCE WITH GOVERNMENT CODE
SECTIONS 65995.5, 65995.6, AND 65995.7**

WHEREAS, the Governing Board of the Elk Grove Unified School District (“Board”) has elected to participate in the school facilities funding program established pursuant to the Leroy F. Greene School Facilities Act of 1998 (“Act”) for both modernization and new construction projects; and

WHEREAS, under the Act, the Board may establish fees to offset the cost of school facilities made necessary by new construction following the making of certain findings; and

WHEREAS, the Elk Grove Unified School District (“District”) has undertaken a review of its eligibility to establish fees under the Act; and

WHEREAS, the District has completed and certified State Allocation Board (“SAB”) Form 50-04 (Application for Funding) and SAB Form 50-05 (Fund Release Authorization) for new construction funding prior to the adoption of this Resolution; and

WHEREAS, at least twenty percent (20%) of the District's teaching stations are relocatable classrooms; and

WHEREAS, the District meets the bonding capacity requirements of the Act; and

WHEREAS, the District has prepared an analysis entitled “Schools Facility Needs Analysis/Development Fee Justification Study,” dated May 2012, (the “Needs Analysis”) for purposes of adopting alternative school facility fees pursuant to Government Code Sections 65995.5 (“Level 2 Fee”) and 65996.7 (“Level 3 Fee”) (collectively referred to as “Alternative School Facility Fees”) in accordance with applicable law; and

WHEREAS, the Board has reviewed and considered the Needs Analysis which includes all of the findings required by applicable law, including an analysis of the

purpose of the Alternative School Facility Fees and the reasonable relationship between the Alternative School Facility Fees and the need for new school facilities to accommodate students generated from new residential construction; and

WHEREAS, the District does not have sufficient funds available for the construction or reconstruction of school facilities, including acquisition of school sites, construction of permanent school facilities, and interim school facilities to accommodate students generated from new development; and

WHEREAS, the Board has satisfied all of the requirements of Government Code Section 65995.5 to be eligible to establish and levy fees pursuant to the Act; and

WHEREAS, in accordance with Government Code Sections 65995.5, 65995.6 and 65995.7, the purpose of this Resolution is to adopt a Needs Analysis and to establish and levy fees under the provisions of the Act consistent with the information and data set forth in the Needs Analysis and upon such other information and documentation prepared by or on file with the District, as presented and described to the Board.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE GOVERNING BOARD OF THE ELK GROVE UNIFIED SCHOOL DISTRICT AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct.

Section 2. Procedure. The District has complied with all applicable notice, public review, and hearing requirements necessary to adopt the Needs Analysis and establish and levy fees under the Act. Specifically:

(a) Prior to the adoption of this Resolution, the Board conducted a public hearing to adopt the Needs Analysis at its July 10, 2012, regular meeting at which time all persons desiring to comment on the Needs Analysis were heard and all information was duly considered.

(b) Notice of the time and place of the public hearing, including the location and procedure for viewing or requesting a copy of the proposed Needs Analysis and any proposed revision of the Needs Analysis, has been published in a newspaper of general circulation in accordance with Government Code Section 65995.6(d), and a

notice, including a statement that the Needs Analysis required by Government Code Section 65995.6 was available, was mailed at least 30 days prior to the public hearing to any interested party who had previously filed a written request with the District for mailed notice of the meeting on new or increased fees or service charges within the period specified by law.

(c) At least 30 days prior to the public hearing, the District made available to the public in its Needs Analysis, data indicating the amount of the costs, or estimated costs, required to provide the facilities for which the fee is to be levied pursuant to this Resolution, and the revenue sources anticipated to provide this service.

(d) By way of a public meeting, the Board received oral and written presentations by District staff which are summarized and contained in the District's Needs Analysis and the District's applications and related documents filed with the State Allocation Board in accordance with relevant law, along with materials which formed the basis for the action taken pursuant to this Resolution.

Section 3. Findings. The Board has reviewed the provisions of the Needs Analysis as it relates to proposed and potential development, the resulting school facilities needs, the cost thereof, and the available sources of revenue including the fees provided by this Resolution, and based thereon and upon all other written and oral presentations to the Board, the Board hereby approves and adopts the Needs Analysis and makes the following findings:

(a) Enrollment at the various District schools is presently at or exceeding capacity;

(b) Additional development projects within the District, whether new residential construction or residential reconstruction involving increases in habitable area will increase the need for school facilities;

(c) Without the addition of new school facilities, further residential development projects within the District will result in a significant decrease in the quality of education presently offered by the District;

(d) New residential development is projected within the District's boundaries and the enrollment produced thereby will exceed the capacity of the schools of the District. Projected development within the District, without additional school facilities, will result in conditions of overcrowding which will impair the normal functioning of the District's educational programs;

(e) The fees proposed in the Needs Analysis and levied pursuant to this Resolution are for the purpose of providing adequate school facilities and related support facilities to maintain the quality of education offered by the District;

(f) The fees proposed in the Needs Analysis and levied pursuant to this Resolution will be used for construction and reconstruction of school facilities and support facilities as identified in the Needs Analysis;

(g) The uses of the fees proposed in the Needs Analysis and levied pursuant to this Resolution are reasonably related to the types of development projects on which the fees are imposed;

(h) The fees proposed in the Needs Analysis and levied pursuant to this Resolution bear a reasonable relationship to the need for school and support facilities created by the types of development projects on which the fees are imposed;

(i) The fees proposed in the Needs Analysis and levied pursuant to this Resolution do not exceed the estimated amount required to provide funding for the construction or reconstruction of school and support facilities for which the fees are levied; and in making this finding, the Board declares that it has considered the availability of revenue sources anticipated to provide such facilities, including general fund revenue; and

(j) The fees will be collected for school and support facilities for which an account has been established and funds appropriated and for which the District has adopted a construction schedule or in some instances, will be used to reimburse the District for expenditures previously made.

Section 4. Determination of Eligibility.

(a) The District has submitted a timely application to the State Allocation Board for new construction funding, and has met the eligibility requirements for new construction funding pursuant to the provisions of the Leroy F. Green School Facilities Act of 1998.

(b) In accordance with the provisions of Government Code Section 65995.5(b)(3)(C) and 65995.5(b)(3)(D), the District meets the local bonding capacity requirements and the District uses relocatable classrooms for at least 20% of its teacher stations.

Section 5. Adoption of Needs Analysis.

(a) The Board has reviewed the provisions of the Needs Analysis along with such oral and written information as has been presented by District staff and consultants and has determined that the Needs Analysis meets the requirements of Government Code Section 65995.6 and is a suitable basis for the establishment of Level 2 and Level 3 fees in accordance with the provisions of Government Code Section 65995.5 and 65995.7, and hereby adopts the Needs Analysis.

Section 6. Determination and Establishment of Fees. Based upon the foregoing findings, the Board hereby establishes and levies a new fee upon residential construction within the District, to be known as the "Level 2 Fee" and the "Level 3 Fee" as follows:

(a) **Level 2 Fees.** The Level 2 Fee for new residential construction is hereby established and set at the rate of \$4.66 per square foot of residential development. The Level 2 Fee shall be collected as a precondition to the issuance of any building permit for construction within the District's boundaries.

(b) **Level 3 Fees.** In accordance with the provisions of Government Code Section 65995.7, the District's Board is authorized to establish a fee in an amount higher than the Level 2 fee in the event the State Allocation Board is no longer approving

apportionments for new construction in accordance with Education Code Section 17072.20 et seq. due to lack of funds, and the State Allocation Board has notified the Secretary of the Senate and Chief Clerk of the Assembly, in writing, of the determination that such funds are no longer being allocated. In the event that on or before the Anniversary Date of this Resolution as defined below, the State Allocation Board is no longer approving apportionments due to inadequate funding and such fact is relayed to the appropriate state representatives, a fee calculated pursuant to Government Code Section 65995.7, the Level 3 fee, may be levied. The Level 3 Fee for residential construction is hereby established and set at the rate of \$9.33 per square foot of residential development.

(c) The Level 3 Fee shall be placed in effect immediately by action of the Superintendent, without any additional action by the Board other than a determination by the Superintendent that the requirements of Government Code Section 65995.7 as outlined above have been met.

Section 7. Fee Adjustments and Limitations. The fees established herewith shall be subject to the following:

(a) The District's Level 2 Fee (or the Level 3 Fee when applicable) shall be effective for a period of one year following the effective date of this Resolution as set forth below and shall be reviewed annually to determine if such fee is to be re-established or revised.

(b) The Level 2 Fee established hereby (or the Level 3 Fee when applicable) shall not apply during the term of any contract entered into between a subdivider or builder and the District, or any applicable city or county on or before January 1, 1987, that requires the payment of a fee, charge or dedication for the construction of school facilities as a condition to the approval of residential development.

(c) The Level 2 Fee established hereby (or the Level 3 Fee when applicable) shall not apply during the term of any contract entered into between a person and the District or any applicable city or the County, after January 1, 1987 but before

November 4, 1998, that requires payment of a fee, charge, or dedication for school facilities mitigation.

(d) The Level 2 Fee established hereby (or the Level 3 Fee when applicable) shall not apply to any construction that is not subject to a contract such as described above, but that is carried out on real property for which residential development was made subject to a condition relating to school facilities imposed by a state or local agency in connection with a legislative act approving or authorizing such residential development after January 1, 2000, such construction shall be subject to the Level 2 Fee or the Level 3 Fee as applicable.

Section 8. Additional Mitigation Methods. The policies set forth in this Resolution are not exclusive, and the Board reserves the authority to undertake other or additional methods to finance school facilities including but not limited to the Mello-Roos Community Facilities Act of 1982 (Government Code §§53311, et seq.) and such other funding mechanisms as are authorized by Government Code Section 65996. This Board reserves the authority to substitute the dedication of land or other property or other form of mitigation requirement in lieu of the fees levied by way of this Resolution at its discretion, so long as the reasonable value of land to be dedicated does not exceed the maximum fee amounts contained herein or modified pursuant hereto.

Section 9. Implementation. For construction projects within the District, the Superintendent, or the Superintendent's designee, is authorized to issue Certificates of Compliance upon the payment of any fee levied under the authority of this Resolution.

Section 10. California Environmental Quality Act. The Board hereby finds that, in accordance with Government Code Section 65995.6(g), the fees established pursuant to this Resolution are exempt from the provisions of the California Environmental Quality Act (CEQA), and hereby directs District staff to file a Notice of Exemption with the Office of the Sacramento County Clerk.

Section 11. Effective Date. The Board orders that the fees established hereby shall take effect immediately after adoption of this Resolution and shall be in effect for one (1) year.

Section 12. Notification of Local Agencies. The Secretary of the Board or District staff designee is hereby directed to forward certified copies of this Resolution, accompanied by all relevant supporting documentation including the Needs Analysis, and a map of the boundary area of the District subject to the Level 2 Fees and Level 3 Fees, to all appropriate land use jurisdictions issuing building permits within the District, informing each of them of the District's current school facilities fee for development projects.

Section 13. Severability. If any portion of this Resolution is found by a Court of competent jurisdiction to be invalid, such finding shall not affect the validity of the remaining portions of this Resolution. The Board hereby declares its intent to adopt this Resolution irrespective of the fact that one or more of its provisions may be declared invalid subsequent hereto.

APPROVED, PASSED and ADOPTED by the governing board of the Elk Grove Unified School District this 10th day of July, 2012, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

President, Governing Board
Elk Grove Unified School District

ATTEST:

Secretary, Governing Board
Elk Grove Unified School District

Development Fee Justification Study/ School Facilities Needs Analysis

Prepared for

Elk Grove Unified School District

May 2012

ODELL Planning & Research, Inc.

School Facility Planning • Environmental Analysis • Demographics

Development Fee Justification Study/ School Facilities Needs Analysis

Prepared for

Elk Grove Unified School District
9510 Elk Grove-Florin Road
Elk Grove, California 95624
(916) 686-7711

Prepared by

Odell Planning & Research, Inc.
School Facility Planning, Environmental Analysis, Demographics
7600 N. Ingram Avenue, Suite 121
Fresno, California 93711
(559) 233-7260

May 2012

TABLE OF CONTENTS

<u>SECTIONS</u>	<u>PAGE</u>
A INTRODUCTION AND FINDINGS	A-1
B RESIDENTIAL FEE JUSTIFICATION	
Introduction	B-1
Step 1: Five-Year Projection of Residential Units	B-2
Step 2: Project Number of Students Generated by New Residential Units	B-3
Step 3: Determine Excess Facilities Capacity	B-4
Step 4: Determine Number of Unhoused Students Generated by New Development	B-5
Step 5: Calculate Allowable School Facilities Costs	B-5
Step 6: Determine Dedicated Local Funds	B-8
Step 7: Calculate Level 2 Fee	B-10
Step 8: Determine Level 3 and Level 1 Fees	B-10
C COMMERCIAL/INDUSTRIAL FEE JUSTIFICATION	
Introduction	C-1
Step 1: Determine Square Footage Per Employee	C-1
Step 2: Determine Number of Students Per Employee	C-1
Step 3: Calculate Student Generation Rate Per 1,000 Square Feet	C-1
Step 4: Determine School Facilities Cost Per Student	C-1
Step 5: Calculate Cost Per Square Foot	C-3
Step 6: Calculate Residential Offset	C-3
Step 7: Determine Net Cost Per Square Foot (Justifiable Fee)	C-3

APPENDICES

B-1	Projected New Residential Units During the Next Five Years
B-2	Student Generation Rate Study Procedure and Rates
B-3	Site Acquisition Costs
B-4	Site Development Costs
B-5	Planned New School Facilities and Other School Projects
C-1	Commercial/Industrial Development Projection

LIST OF TABLES

1-1	Residential Development 2007-2011	B-1
1-2	Projected Residential Development	B-2
2-1	Student Generation Rates	B-3
2-2	Students Generated by Residential Units Constructed During the Next Five Years	B-3
2-3	SDC Students Generated by New Residential Units (Five Years)	B-4
3-1	Excess Facilities Capacity (or Capacity Needed)	B-4
4-1	Unhoused Students Generated by New Development	B-5
5-1	Allowable Building Construction Cost for Unhoused New Development Students	B-6
5-2	Allowable Site Acquisition Cost for Unhoused New Development Students	B-7
5-3	Allowable Site Development Cost for Unhoused New Development Students	B-7
5-4	Total Allowable School Facilities Costs for Unhoused New Development Students	B-8
6-1	Cost to Provide Facilities for Existing Unhoused Students	B-9
7-1	Projected Residential Square Footage (Five-Year Period)	B-10
7-2	Level 2 Fee	B-10
8-1	Level 3 Fee	B-11
C-1	Commercial/Industrial Development Fee Calculation	C-2

INTRODUCTION AND FINDINGS

INTRODUCTION

School districts are authorized to collect fees on new residential and commercial/industrial development in accordance with Education Code Section 17260 and Government Code Section 65995. The traditional development fees, referred to as "Level 1" fees, are currently capped at \$3.20 per square foot for residential development and \$0.51 per square foot for commercial/industrial development. The law provides for the Level 1 fee caps to be adjusted by the State Allocation Board every two years at its January meeting. The next adjustment will take place in January 2014.

The Leroy F. Greene School Facilities Act of 1998 allows school districts to charge a fee on new residential construction as an alternative to the traditional ("Level 1") residential developer fee, if certain requirements are met. The alternative fees are referred to as Level 2 and Level 3 fees and may exceed the Level 1 fee up to an amount justified through the preparation of a "school facilities needs analysis" in accordance with Government Code Section 65995.6 and the related fee calculation requirements of Sections 65995.5 and 65995.7.

This Development Fee Justification Study/School Facilities Needs Analysis is intended to replace the justification study for Level 1 fees prepared for the District in July 2010 and the needs analysis (Level 2 and 3 fees) prepared in June 2011. The alternative fees adopted in accordance with the prior needs analysis are effective for no more than one year. (A school facilities needs analysis may be revised any time and is subject to the same conditions and requirements applicable to the original adoption.)

In addition to preparing a School Facilities Needs Analysis, Government Code Section 65995.5(b) states that a school district must meet two other requirements to be eligible to impose alternative fees:

- (1) The district must make timely application to and be determined to be eligible by the State Allocation Board for new school facility construction funding.
- (2) The district must satisfy at least two of the four requirements set forth in Government Code Section 65995.5 (b)(3). The four requirements are:
 - (a) the district has substantial enrollment on a multi track year-round schedule;
 - (b) the district has placed a local general obligation bond measure for school facilities on the ballot in the last four years that received at least 50 percent plus one vote;
 - (c) the district has issued debt or incurred obligations for capital outlay in an amount equivalent to 15 percent of its local bonding capacity; or in an amount equivalent to 30 percent of such local bonding capacity, if special taxes levied pursuant to Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5, approved by a vote of landowners after November 4, 1998, are included in the repayment of indebtedness; and
 - (d) at least 20 percent of the district's teaching stations are relocatable classrooms.

Requirement 1, above, is met because the District has been determined to be eligible by the State Allocation Board for new school facility construction funding and has applied for such funding. Requirement 2 has been met because the District meets the local bonding capacity requirement and because at least 20 percent of the District's teaching stations are relocatable classrooms.

FINDINGS

This Development Fee Justification Study/School Facilities Needs Analysis provides the information and analysis necessary to demonstrate that the Elk Grove Unified School District is justified in collecting Level 1 fees on new residential and commercial/ industrial development (\$3.20 and \$0.51 per square foot, respectively), and a Level 2 fee of \$4.66 per square foot for residential development.

In order to charge development fees, Section 66001 of the Government Code requires that the District determine that there is a reasonable relationship or nexus between:

- the fee's use and the type of development project on which the fee is imposed;
- the need for the public facility and the type of development project on which the fee is imposed; and
- the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed.

As required by Section 66001, this report demonstrates the following:

- 1. Use of the fee for new school facilities relates directly to the new residential and commercial/industrial units.**
 - Based upon past development activity, adopted land use plans and approved development projects, an additional 2,882 single family units, 1,311 multiple family units, 95 condominium units and approximately 4,028,000 square feet of commercial/industrial development will be constructed in the District during the next five years (see Section B, Step 1 and Appendix C-1).
 - Students will be generated by new residential development. Single family residential development generates an average of .6832 grades K-12 students per unit (see Section B, Step 2). Multiple family and condominium units generate an average of .5155 and .2576 grades K-12 students, respectively. Commercial and industrial development generates between .111 and .507 K-12 students per 1,000 square feet, depending on category of development (see Section C, Table C-1).
 - New development is expected to generate approximately 2,669 additional students in the District during the next five years, including 1,469 in grades K-6, 391 in grades 7-8, 726 in grades 9-12, 12 SDC Non-severe students and 71 SDC Severe students (see Section B, Step 2).
- 2. The District needs additional school facilities to accommodate students from new development.**
 - The District currently lacks facilities capacity to adequately house existing students in all grade groupings except for SDC Non-severe (see Section B, Step 3).
 - The District will need additional school facilities to house the following number of students generated by new development during the next five years: 1,469 in grades K-6, 391 in grades 7-8, 590 in grades 9-12 and 71 SDC Severe students (see Section B, Step 4).
- 3. The amount of fees charged is reasonably related to the cost of facilities attributable to new development projects.**
 - Section B justifies a Level 2 Fee of \$4.66 per square foot and a Level 3 Fee of \$9.33 per square foot. The Level 2 and Level 3 fees are intended to provide 50% and 100% of the cost of providing school facilities for students from new development, respectively, using

prescribed state cost allowances. Therefore, the fees are reasonably related to the cost of facilities attributable to new development projects. However, the specific and limited methodology for the calculation of Level 2 and 3 fees may not reflect the full cost to the District for providing facilities for students from new development.

- The residential fee per square foot justified by this report to fund the cost of providing school facilities to students from new development, based on 100% of state allowable costs, is \$9.33 per square foot (see Section B, Step 8). The maximum allowable Level 1 residential fee (\$3.20 per square foot) falls substantially short of funding the full cost of providing school facilities to students from new development.
- A fee on commercial and industrial development may be charged as a supplement to the residential fee if the residential fee does not cover the cost of providing school facilities to students from new development. The justifiable fees for commercial and industrial development by category are presented in Table C-1, which shows that the maximum commercial/industrial fee of \$0.51 per square foot can be justified in all categories.

RESIDENTIAL FEE JUSTIFICATION

INTRODUCTION

This section presents a step-by-step calculation of the school facilities fees that can be justified for new residential development in the District. In order to facilitate concurrent evaluation of Level 1 and Level 2 fees, the more restrictive Level 2 fee methodology is used in accordance with the requirements of Government Code Sections 65995.5 and 65995.6. The Level 3 fee is also calculated pursuant to Government Code Section 65995.7.

STEP 1: FIVE-YEAR PROJECTION OF RESIDENTIAL UNITS

The first step in the analysis is to project the number of residential units to be constructed in the District during the next five years. As a first step in this process, it is appropriate to evaluate District development activity in the recent past and to consider local agency plans and projections for residential development activity.

Residential development activity in the District between January 1, 2007, and December 31, 2011, is shown below on Table 1-1.

TABLE 1-1

**Elk Grove Unified School District
RESIDENTIAL DEVELOPMENT 2007-2011**

Year	Single Family Units	Multiple Family Units	Condominium Units	Total Residential Units
2007	1,133	236	70	1,439
2008	482	423	45	950
2009	437	0	33	470
2010	445	0	0	445
2011	470	204	0	674
Total	2,967	863	148	3,978
Average	593	173	30	796

Source: Elk Grove Unified School District (Developer Fee Records), 2007-2011

Table 1-1 indicates that developer fees were paid for 2,967 single family units in the District during the past five years. This is an average of 593 single family units per year. As shown in Table 1-1, single family residential development activity has decreased from 1,133 units in 2007 to 470 units in 2011. During the past three years, the number of single family units has remained about the same, averaging 451 units per year.

The number of multiple family units has ranged from a high of 423 units in 2008 to a low of zero units in 2009 and 2010. The annual average for the past five years was 173 units.

The number of condominium units constructed in the District ranged from zero units in 2010 and 2011 to 70 units in 2007. The annual average for the past five years was 30 units.

The Sacramento County 2030 General Plan update was adopted by the Sacramento County Board of Supervisors on November 9, 2011. The County currently has adequate residential holding capacity to meet its housing needs through 2030. Approximately 60% of this existing holding capacity is in the Elk Grove Unified School District. Key changes in the 2030 General

Plan update include a new growth management strategy, a stronger focus on addressing existing communities and revitalizing aging commercial corridors, a new Economic Development Element, and strategies to reduce greenhouse gas emissions consistent with state law.

The City of Elk Grove General Plan was adopted in November 2003. All expected growth in the City of Elk Grove General Plan is within the boundaries of EGUSD. The City of Sacramento's recently adopted 2030 General Plan anticipates very little growth in the EGUSD portion of its boundaries. The City of Rancho Cordova General Plan, adopted in June 2006, anticipates thousands of additional residential units in new growth areas of the Sunrise Douglas Community Plan area.

Projections for residential development during the next five years are presented in Table 1-2. Table 1-2 projects that approximately 2,882 single family units, 1,311 multiple family units and 95 condominium units will be constructed during the next five years. The projections take into consideration current housing market conditions, adopted land use plans and approved development projects.

TABLE 1-2
Elk Grove Unified School District
PROJECTED RESIDENTIAL DEVELOPMENT

Year	Single Family Units	Multiple Family Units	Condominium Units	Total Residential Units
2012-13	473	348	0	821
2013-14	506	228	0	734
2014-15	562	100	0	662
2015-16	623	275	20	918
2016-17	718	360	75	1,153
Total	2,882	1,311	95	4,288

Source: Elk Grove Unified School District, 2012 (Appendix B-1)

Table 1-2 projects less single family and condominium development activity than occurred during the past five years. However, multi-family development is projected to be substantially greater than occurred during the past five years.

STEP 2: PROJECT NUMBER OF STUDENTS GENERATED BY NEW RESIDENTIAL UNITS

The number of students generated by residential units constructed during the next five years is projected by multiplying the student generation rates for new residential development in the District by the number of units projected in Step 1. The student generation rates for new residential units in the District are shown in Table 2-1. The methodology used by the District to determine the student generation rates is detailed in Appendix B-2.

TABLE 2-1

**Elk Grove Unified School District
STUDENT GENERATION RATES**

Grade Level	Single Family Units	Multi-Family Units	Condo Units
Elementary (K-6)	0.3843	0.3012	0.1271
Middle School (7-8)	0.0994	0.0868	0.0435
High School (9-12)	0.1995	0.1275	0.0870
Total (K-12)	0.6832	0.5155	0.2576

Source: Elk Grove Unified School District, 2012

Table 2-2 shows the projected number of students generated by residential units constructed during the next five years. As indicated by the table, a total of 1,515 elementary school students, 404 middle school students and 750 high school students are projected to be generated by residential units projected to be constructed during the next five years.

The number of students generated in Table 2-2 is adjusted in Table 2-3 to account for the number of Special Day Class (SDC) students that would be generated by new development. Based upon the existing percentage of SDC students in each grade grouping, Table 2-3 estimates the number of SDC students generated by new development (12 Non-severe and 71 Severe) and subtracts them from the number of students projected in Table 2-2. The net number of students generated by new development, less SDC students, would be 1,469 in grades K-6, 391 in grades 7-8 and 726 in grades 9-12.

TABLE 2-2

**Elk Grove Unified School District
STUDENTS GENERATED BY RESIDENTIAL UNITS
CONSTRUCTED DURING THE NEXT FIVE YEARS**

Grade Level	Number of Units	Student Generation Rate	New Development Students
<i>Single Family Development</i>			
K-6	2,882	0.3843	1,108
7-8	2,882	0.0994	286
9-12	2,882	0.1995	575
<i>Multiple Family Development</i>			
K-6	1,311	0.3012	395
7-8	1,311	0.0868	114
9-12	1,311	0.1275	167
<i>Condominium Development</i>			
K-6	95	0.1271	12
7-8	95	0.0435	4
9-12	95	0.0870	8
<i>Total Students From New Development</i>			
K-6			1,515
7-8			404
9-12			750

Source: Elk Grove Unified School District (Student Generation Rates), 2012; Odell Planning & Research, Inc., 2012

TABLE 2-3
Elk Grove Unified School District
SDC STUDENTS GENERATED BY NEW RESIDENTIAL UNITS
(FIVE YEARS)

Grade Level	Students Projected in Table 2-2	SDC Percentage		SDC Students		Table 2-2 Students Less SDC
		Non- severe	Severe	Non- Severe	Severe	
K-6	1,515	0.41%	2.63%	6	40	1,469
7-8	404	0.49%	2.69%	2	11	391
9-12	750	0.49%	2.69%	4	20	726
Total SDC				12	71	

Source: Elk Grove Unified School District, 2012; Odell Planning & Research, Inc., 2012

STEP 3: DETERMINE EXCESS FACILITIES CAPACITY

Based on the information on the District's most recent Capacity Baseline Adjustment Worksheet, the District's existing school building capacity is 25,589 for grades K-6, 9,547 for grades 7-8, 19,028 for grades 9-12, 962 for SDC Non-severe students and 315 for SDC Severe students. The total capacity is inclusive of projects at all grade levels that have been approved for construction by the State Allocation Board but have not yet completed construction.

Section 65995.6(b)(2) of the Government Code requires that the analysis "identify and consider the extent to which projected enrollment growth may be accommodated by excess capacity in existing facilities." To determine whether there is any excess capacity to house new development students, Table 3-1 compares the 2011-12 enrollment in each grade grouping to the existing school building capacity. As shown by Table 3-1, no facilities capacity exists to accommodate students from new development, except for 136 grade 9-12 students and 692 SDC Non-severe students. In fact, the District currently needs capacity for 6,416 students in grades K-6, 50 students in grades 7-8 and 1,292 SDC Severe students.

TABLE 3-1
Elk Grove Unified School District
EXCESS FACILITIES CAPACITY (OR CAPACITY NEEDED)

Grade Level	Facilities Capacity	2011-12 Enrollment	Excess Capacity (or Capacity Needed)
K-6	25,589	32,005	None (6,416)
7-8	9,547	9,597	None (50)
9-12	19,028	18,892	136
SDC Non-severe	962	270	692
SDC Severe	315	1,607	None (1,292)

Source: Elk Grove Unified School District, 2012

STEP 4: DETERMINE NUMBER OF UNHOUSED STUDENTS GENERATED BY NEW DEVELOPMENT

The number of unhoused students from new development for the next five years is determined in Table 4-1 by subtracting any available capacity in Table 3-1 from the number of students generated by new development. Since there is no capacity available in grades K-6, 7-8, and SDC Severe, all of the students projected from new development in grades K-6, 7-8, and SDC Severe will be unhoused. However, Table 3-1 shows that there is excess capacity for 136 grades 9-12 students and 692 SDC Non-severe students. Therefore, 136 grades 9-12 and all of the projected SDC Non-severe students can be accommodated in existing facilities.

TABLE 4-1

**Elk Grove Unified School District
UNHOUSED STUDENTS GENERATED BY NEW DEVELOPMENT**

Grade Level	New Development Students	Excess Capacity	Unhoused Students
K-6	1,469	0	1,469
7-8	391	0	391
9-12	726	136	590
SDC Non-severe	12	692	0
SDC Severe	71	0	71

Source: Odell Planning & Research, 2012; Elk Grove Unified School District, 2012

STEP 5: CALCULATE ALLOWABLE SCHOOL FACILITIES COSTS

School facilities costs are broken down into three categories: building construction, site acquisition and site development. The allowable District cost of school building construction for unhoused students from new development is calculated by multiplying the number of new development students needing facilities by the per student cost allowances specified in Education Code Section 17072.10(a), as annually adjusted by the State Allocation Board.¹ The allowances used in this report include the adjusted additional grants for automatic fire detection and sprinkler systems.

As indicated by Table 5-1, the total allowable District building construction cost for unhoused students generated by new development during the next five years is \$27,689,834.

¹ The per student cost allowances are intended to provide the District's 50 percent share of the cost of facilities, with the remaining 50 percent provided by the state building program. The actual District cost for school facilities may be greater than the state allowances.

TABLE 5-1

**Elk Grove Unified School District
ALLOWABLE BUILDING CONSTRUCTION COST FOR UNHOUSED
NEW DEVELOPMENT STUDENTS**

Grade Level	Unhoused Students	Cost Per Student	Allowable Cost
K-6	1,469	\$9,625	\$14,139,125
7-8	391	\$10,204	\$3,989,764
9-12	590	\$12,942	\$7,635,780
SDC Non-severe	0	\$18,134	\$0
SDC Severe	71	\$27,115	\$1,925,165
Total			\$27,689,834

Source: Odell Planning & Research, Inc., 2012; State Allocation Board, January 2012.

Government Code Section 65995.5(c)(1) allows site acquisition and development costs to be added to the building construction cost for new development students. According to Section 65995.5(h) site acquisition costs "shall not exceed half the amount determined by multiplying the land acreage determined to be necessary under the guidelines of the State Department of Education, as published in the 'School Site Analysis and Development Handbook,' as that handbook read as of January 1, 1998, by the estimated cost determined pursuant to Section 17072.12 of the Education Code. Site development costs shall not exceed two times the amount funded by the State Allocation Board."

Site acquisition costs are estimated by the District, as follows: \$1,955,699 for an elementary school site and \$14,863,314 for a combined middle school and high school site (see Appendix B-3). (Future middle and high schools will be constructed on combined sites). One-half of these respective amounts, divided by a typical capacity of 850 for an elementary school, 1,200 for a middle school and 2,200 for a high school (3,400 total for secondary grades), equals an allowable District cost per student for site acquisition of \$1,150 per elementary school student and \$2,186 per middle and high school student. Site acquisition costs for SDC students were calculated based on a weighted average between elementary and secondary costs based on the projected proportion of SDC students in the elementary and secondary grades.

Table 5-2 indicates that the total allowable site acquisition cost to accommodate projected students from new development is \$3,949,617.

TABLE 5-2

**Elk Grove Unified School District
ALLOWABLE SITE ACQUISITION COST FOR UNHOUSED
NEW DEVELOPMENT STUDENTS**

Grade Level	Unhoused Students	Cost Per Student	Allowable Cost
K-6	1,469	\$1,150	\$1,689,350
7-8	391	\$2,186	\$854,726
9-12	590	\$2,186	\$1,289,740
SDC Non-severe	0	\$1,635	\$0
SDC Severe	71	\$1,631	\$115,801
Total			\$3,949,617

Source: Elk Grove Unified School District (Site Acquisition Cost), 2012; Odell Planning & Research, Inc., 2012

Allowable site development costs include service site, offsite, utilities and general site costs. One-half the estimated service site, offsite, and utilities costs are allowable. Allowable general site amounts are based on a per acre grant amount plus a percent of the base student construction grant amount (see Appendix B-4 for details). The per student amounts in Table 5-3 are the sum of the service site, offsite, utilities, and general site amounts. Table 5-3 indicates that the total allowable site development cost to accommodate projected students from new development is \$5,517,911.

TABLE 5-3

**Elk Grove Unified School District
ALLOWABLE SITE DEVELOPMENT COST FOR UNHOUSED
NEW DEVELOPMENT STUDENTS**

Grade Level	Unhoused Students	Cost Per Student	Allowable Cost
K-6	1,469	\$1,934	\$2,841,046
7-8	391	\$2,641	\$1,032,631
9-12	590	\$2,518	\$1,485,620
SDC Non-severe	0	\$2,236	\$0
SDC Severe	71	\$2,234	\$158,614
Total			\$5,517,911

Source: Elk Grove Unified School District (Site Development Cost), 2012; Odell Planning & Research, Inc., 2012

The total allowable school facilities costs to accommodate students generated by new development during the next five years are shown on Table 5-4. The total costs are determined to be \$37,157,362.

TABLE 5-4

**Elk Grove Unified School District
TOTAL ALLOWABLE SCHOOL FACILITIES COSTS
FOR UNHOUSED NEW DEVELOPMENT STUDENTS**

Type of Cost	Allowable Costs
Building Construction	\$27,689,834
Site Acquisition	\$3,949,617
Site Development	\$5,517,911
Total	\$37,157,362

A list of the District's planned school facilities projects, for which developer fees will be expended, is included in Appendix B-5.

STEP 6: DETERMINE DEDICATED LOCAL FUNDS

Pursuant to Section 69995.5(c)(2), the full amount of any local funds dedicated to school facilities necessitated by students from new development must be subtracted from the cost determined in Step 5. The District has the following possible sources of local funding:

Reimbursements: There have been instances when the District received reimbursement money for infrastructure development not funded by the State School Building Program but reimbursed by the County of Sacramento or utility companies. Any reimbursements have been accounted for in the site development costs used in this analysis.

Redevelopment Pass-Throughs: Based on information provided by the Sacramento Housing and Redevelopment Agency, the District's RDA income for the 2011-12 fiscal year will be \$30,470.

Excess Tax Proceeds: Excess tax proceeds refer to special tax dollars collected above the cost of the debt service owed on bonds. The excess tax proceeds for 2011-12 amounted to \$708,363. Excess tax revenue will be expended on administration, to pay claims against the special tax district and to fund school projects.

School Fees: The District collects \$0.47 per square foot in statutory school fees for commercial and industrial development and \$4.32 per square foot for residential construction. In 2011, fees were collected on 191,923 square feet of non-exempt commercial/industrial development, which amounted to \$90,204. As of April 30, 2012, the District had approximately \$22.4 million in its developer fee fund. All of the monies in the developer fee fund are committed to school facilities projects. These funds are not available to provide facilities to students generated by new development over the next five years because the funds are necessary to provide facilities for students from prior development that have already paid fees but do not yet have facilities. The cost to provide facilities for existing unhoused students is approximately \$121.3 million (see Table 6-1).

Mello-Roos Special Tax: Because of funding deficiencies associated with state funds and developer fees, the District, in 1987, implemented a Mello-Roos Special Tax. On March 10, 1998, the voters approved an additional \$205 million of bond authorization. Mello-Roos funds are intended to provide an alternate source of funds to mitigate the late arrival of state funds, offset state funding shortfalls, finance facilities needs that are not funded by the state building program or developer fees, and to provide funding for modernization, deferred maintenance,

additions, technology and student support services. Mello-Roos funds, therefore, are not considered by the District to be available to supplement the developer fee.

As shown in Step 3, the District currently lacks capacity for 6,416 students in grades K-6, 50 students in grades 7-8 and 1,292 SDC Severe students. The cost to house these students from existing development is presented in Table 6-1 and is based upon the allowable per student costs for building construction, site acquisition and site development shown in Tables 5-1, 5-2 and 5-3.

The District owns an 8.4 acre site that may be used for a future elementary school. A school with a capacity of 845 has been designed for construction on the site. For the purpose of computing the cost to provide facilities for existing unhoused students in Table 6-1, the site acquisition cost for K-6 students is based on 5,571 (6,416 – 845).

By comparing the potentially available local funds for new construction with the cost of providing school facilities for unhoused students from existing development in Table 6-1, it is evident that all possible local funds for new construction would be exhausted providing school facilities for unhoused students from existing development. Therefore, no local funding will be available to provide facilities for projected unhoused students from new development.

TABLE 6-1

**Elk Grove Unified School District
COST TO PROVIDE FACILITIES FOR EXISTING UNHOUSED STUDENTS**

Grade Level	Number of Students	Cost Per Student	Total Cost
<i>Building Construction Cost</i>			
K-6	6,416	\$9,625	\$61,754,000
7-8	50	\$10,204	\$510,200
9-12	0	\$12,942	\$0
SDC Severe	1,292	\$27,115	\$35,032,580
<i>Site Acquisition Cost</i>			
K-6	5,571	\$1,150	\$6,406,650
7-8	50	\$2,186	\$109,300
9-12	0	\$2,186	\$0
SDC Severe	1,292	\$1,631	\$2,107,252
<i>Site Development Cost</i>			
K-6	6,416	\$1,934	\$12,408,544
7-8	50	\$2,641	\$132,050
9-12	0	\$2,518	\$0
SDC Severe	1,292	\$2,234	\$2,886,328
<i>Total Cost</i>			
K-6			\$80,569,194
7-8			\$751,550
9-12			\$0
SDC Severe			\$40,026,160
Total			\$121,346,904

Source: Elk Grove Unified School District; 2012; Odell Planning & Research, Inc., 2012.

STEP 7: CALCULATE LEVEL 2 FEE

In accordance with Section 65995.5(c)(3) of the Government Code, the District's justifiable Level 2 fee is calculated by dividing the allowable school facilities costs for new development students determined in Step 5 by the projected total square footage of assessable space of residential units anticipated to be constructed during the next five years. The total square footage for residential units projected to be constructed in the District is presented in Table 7-1. This was determined by multiplying the respective average square footage of single family, multiple family and condominium units developed in the District during the past two years by the projected number of units determined in Step 1.

TABLE 7-1
Elk Grove Unified School District
PROJECTED RESIDENTIAL SQUARE FOOTAGE
(FIVE-YEAR PERIOD)

Number/Type of Units	Square Footage Per Unit	Total Square Footage Constructed
2,882 Single Family	2,315	6,671,830
1,311 Multiple Family	883	1,157,613
95 Condominium	1,473	139,935
Total		7,969,378

Source: Elk Grove Unified School District (Developer Fee Records); Odell Planning & Research, Inc., 2012

Table 7-2 calculates the Level 2 fee by dividing the allowable school facilities costs for projected students generated by new development (Step 5) by the projected residential square footage determined in Table 7-1. The resulting Level 2 residential fee is \$4.66 per square foot.

TABLE 7-2
Elk Grove Unified School District
LEVEL 2 FEE

Allowable Costs For New Development Students	Projected Residential Square Footage	Cost Per Square-Foot (Level 2 Fee)
\$37,157,362	7,969,378	\$4.66

Source: Odell Planning & Research, Inc., 2012

STEP 8: DETERMINE LEVEL 3 AND LEVEL 1 FEES

For the Level 3 fee, Government Code Section 65995.7(a) provides that if state funds for new facility construction are not available, a district that complies with Section 65995.5 may increase the alternative fee by an amount not to exceed the amount determined previously in Step 7. In other words, if state funding is not available, the Level 2 fee may be effectively doubled to cover the full state-allowed cost of facilities. Therefore, the Level 3 fee is calculated in Table 8-1 by dividing the full state-allowed facilities costs by the projected residential square footage.

TABLE 8-1
Elk Grove Unified School District
LEVEL 3 FEE

100% State-Allowable Facilities Costs For New Development Students	Projected Residential Square Footage	Cost Per Square Foot (Level 3 Fee)
\$74,314,724	7,969,378	\$9.33

Source: Odell Planning & Research, Inc., 2012

As indicated in the previous steps, the Level 2 fee was determined using 50 percent of the state allowed cost to provide facilities for students from new development. The Level 1 fee, however, is calculated using full facilities costs, but is capped at \$3.20 per square foot. As shown in Table 8-1, if 100 percent of the state-allowed facilities costs are used to calculate the fee, a fee of \$9.33 per square foot would result. This amount far exceeds the current cap of \$3.20 per square foot; however, \$3.20 is the highest Level 1 fee that can currently be charged by the District.

COMMERCIAL/INDUSTRIAL FEE JUSTIFICATION

INTRODUCTION

This section presents a step-by-step explanation of the methodology used to determine the District's commercial/industrial development fees, as shown in Table C-1. The maximum commercial/industrial fee that can be charged pursuant to Education Code Section 17620 and Government Code Section 65995 is \$0.51 per square foot.

STEP 1: DETERMINE SQUARE FOOTAGE PER EMPLOYEE

Commercial and industrial development generates employees, and the children of employees living in the District will need to be housed in District schools. The number of employees per 1,000 square feet generated by various types of commercial and industrial development is shown in Table C-1.¹

STEP 2: DETERMINE NUMBER OF STUDENTS PER EMPLOYEE

The average number of students per employee was determined by using 2010 U.S. Census Bureau American Community Survey (ACS) data for the Elk Grove Unified School District and 2010 CBEDS enrollment information from the California Department of Education (CDE) DataQuest web site. According to ACS data, there were 133,569 civilian employed persons residing the District. The CDE web site indicates that 62,416 students were enrolled in grades K-12 in the District in 2010-11. This is a ratio of 0.467 students per employee. This ratio, however, has been adjusted by including only the estimated percentage of employees that would move into the District as a result of employment opportunities (30.2 percent).² The discounted student per employee ratio, therefore, is 0.141 (30.2 percent of 0.467).

STEP 3: CALCULATE STUDENT GENERATION RATE PER 1,000 SQUARE FEET

The student generation rate per 1,000 square feet of commercial/industrial development in each category was calculated by multiplying the number of employees per 1,000 square feet by the number of students per employee. (The numbers are presented per 1,000 square feet rather than per square foot for ease of presentation and data manipulation.)

STEP 4: DETERMINE SCHOOL FACILITIES COST PER STUDENT

The average cost of school facilities per student is \$29,478 and was determined by dividing the cost of providing facilities for new development students determined in Section B, Table 8-1 (\$74,314,724) by the 2,521 new development students needing facilities (unhoused students in Section B, Table 4-1).

¹ Based upon Sacramento Area Council of Governments employee yield data (1995).

² Based on 2010 U.S. Census Bureau American Community Survey data.

TABLE C-1

**Elk Grove Unified School District
COMMERCIAL/INDUSTRIAL FEE CALCULATION**

Category	Employees Per 1,000 Sq. Ft.	Students Per Employee	K-12 Students Per 1,000 Sq. Ft.	Facilities Cost Per Student	Cost Per Square Foot	Residential Offset	Net Cost Per Sq. Ft. (Justifiable Fee)
Warehousing	0.787	0.141	0.111	\$29,478	\$3.27	\$1.73	\$1.54
Hotel & Motel	1.181	0.141	0.167	\$29,478	\$4.91	\$2.60	\$2.31
Industrial	1.312	0.141	0.185	\$29,478	\$5.45	\$2.88	\$2.57
Community Shopping Center	1.469	0.141	0.207	\$29,478	\$6.11	\$3.23	\$2.88
Research & Development	1.771	0.141	0.250	\$29,478	\$7.36	\$3.89	\$3.47
Commercial Strip	1.837	0.141	0.259	\$29,478	\$7.64	\$4.04	\$3.60
Auto Dealer	2.02	0.141	0.285	\$29,478	\$8.40	\$4.44	\$3.95
Neighborhood Shopping Center	2.296	0.141	0.324	\$29,478	\$9.54	\$5.05	\$4.49
Regional Shopping Center	2.755	0.141	0.388	\$29,478	\$11.45	\$6.06	\$5.39
Financial Institution	2.831	0.141	0.399	\$29,478	\$11.77	\$6.22	\$5.54
Medical Office	2.908	0.141	0.410	\$29,478	\$12.09	\$6.39	\$5.69
Commercial Office	3.597	0.141	0.507	\$29,478	\$14.95	\$7.91	\$7.04

Note: Distribution of cost per square foot between the residential offset and the net cost per square foot may not sum precisely due to rounding.
Source: Sacramento Area Council of Governments, 1995; U.S. Census Bureau American Community Survey, 2010; Odell Planning & Research, Inc., 2012

STEP 5: CALCULATE COST PER SQUARE FOOT

The school facilities cost per square foot for each commercial/industrial category was calculated by multiplying the student generation rate per 1,000 square feet by the average school facilities cost per student, and then dividing the product by 1,000.

STEP 6: CALCULATE RESIDENTIAL OFFSET

When employees are generated in the District as a result of new commercial/industrial development, fees will also be charged on the new residential units occupied by the employees and students generated by commercial/industrial development. To prevent a commercial or industrial development from paying for the portion of the impact that will be covered by the residential fee, this amount has been calculated and deducted from each category. This is referred to as the "residential offset" and is intended to avoid any possibility of overpayment for the same student impact. The residential offset amount is calculated by multiplying the following factors together and dividing the total by 1,000 (to convert from cost per 1,000 square feet to cost per square foot):

- The student generation rate per 1,000 square feet of commercial/industrial development.
- The number of dwelling units constructed for each student. This is 1.80, which is derived by taking the weighted average student generation rate for projected single family, multiple family and condominium residential development (0.5541) and dividing it into one.
- The average square feet per dwelling unit (1,859 sq. ft.). This is the weighted average square footage of projected single family, multiple family and condominium units, assuming that 67.2 percent of future units will be single family, 30.6 percent will be multiple family and 2.2 percent will be condominium units (see Table 7-1).
- The maximum residential fee that could be charged by the District (\$4.66 per square foot).

STEP 7: DETERMINE NET COST PER SQUARE FOOT (JUSTIFIABLE FEE)

After subtracting the residential offset, the net justifiable fee for all categories of commercial/industrial development in Table C-1 exceeds the maximum statutory fee of \$0.51 per square foot in all categories. Therefore, the District is justified in charging \$0.51 per square foot for all categories of commercial/industrial development.

Appendix B-1

Projected New Residential Units During the Next Five Years

Elk Grove Unified School District
Residential Units With the Potential to Develop Within Five Years

Year	New Homes Projected			
	Single-Family	Condominiums	Apartments	All Housing Types
2012-13	473	0	348	821
2013-14	506	0	228	734
2014-15	562	0	100	662
2015-16	623	20	275	918
2016-17	718	75	360	1,153
Five Year Total	2,882	95	1,311	4,288

Appendix B-2

Student Generation Rate Study Procedure and Rates

2011-12 STUDENT GENERATION RATE STUDY PROCEDURE

The Elk Grove Unified School District's Student Generation Rate (SGR) study was done in four steps.

1 Determination of areas to be analyzed based upon age of housing

By law, in order for homes to be included in a school district's SGR study, they must have been constructed and occupied within the previous five years. Elk Grove Unified School District designated three types of housing units: single-family homes, apartments and condominiums. For 2011-12, thirteen subdivisions in our district met the guidelines and were used in the single-family housing study, two condominium complexes and six apartment complexes were used for the multi-family housing study.

2 Determination of the number of owner occupied homes in the single family subdivisions

After the single-family study areas were selected, the total lots were counted within each of those areas. County assessor data and ArcGIS software were used to determine a precise count of each of the areas. Tax records for each individual parcel were researched to determine if it was owner occupied. All lots still owned by a development company were eliminated.

3 Determination of the number of students residing within those areas

The ArcGIS program was utilized to count the number of students within each of the selected study areas.

4 Calculation of the Student Generation Rates

The SGR's were calculated by dividing the total number of students by the number of occupied homes within each study area. For each of the apartment complexes, the total number of occupied apartments was divided by the total number of students residing in the complex. For all three housing categories, the SGR was broken down into three grade levels: elementary (K-6), middle (7-8), and high (9-12).

Elk Grove Unified School District
SB50 School Facilities Needs Analysis
Student Generation Rates

October 2011 Residing Students

<i>Grade</i>	<i>Students By Individual Grade</i>	<i>Students By Grade Level</i>	<i>Student Yield Factor</i>
K	78		0.0606
1	84		0.0652
2	75		0.0582
3	66		0.0512
4	80		0.0621
5	45		0.0349
6	67		0.0520
K-6		495	0.3843
7	71		0.0551
8	57		0.0443
7-8		128	0.0994
9	75		0.0582
10	54		0.0419
11	65		0.0505
12	63		0.0489
9-12		257	0.1995
Total	880	880	0.6832
Units			1,288

October 2011 Residing Students

<i>Grade</i>	<i>Students By Individual Grade</i>	<i>Students By Grade Level</i>	<i>Student Yield Factor</i>
K	31		0.0421
1	31		0.0421
2	42		0.0570
3	29		0.0393
4	30		0.0407
5	30		0.0407
6	29		0.0393
K-6		222	0.3012
7	29		0.0393
8	35		0.0475
7-8		64	0.0868
9	25		0.0339
10	20		0.0271
11	26		0.0353
12	23		0.0312
9-12		94	0.1275
Total	380	380	0.5156
Units			737

October 2011 Residing Students

<i>Grade</i>	<i>Students By Individual Grade</i>	<i>Students By Grade Level</i>	<i>Student Yield Factor</i>
K	1		0.0033
1	6		0.0201
2	8		0.0268
3	6		0.0201
4	6		0.0201
5	8		0.0268
6	3		0.0100
K-6		38	0.1271
7	7		0.0234
8	6		0.0201
7-8		13	0.0435
9	6		0.0201
10	5		0.0167
11	8		0.0268
12	7		0.0234
9-12		26	0.0870
Total	77	77	0.2575
Units			299

Appendix B-3

Site Acquisition Costs

Elk Grove Unified School District Site Acquisition Costs
 2012 School Facilities Needs Analysis/Fee Justification Study
 (Based Upon an Average of Recent School Site Acquisition and Appraisals)

Elementary School Site	Cost per Acre	Acquisition Cost	Escrow/Other (4%)	Total
10 acre elementary school site	\$188,048	\$1,880,480	\$75,219	\$1,955,699

Secondary School Site (Combined Middle/High School)	Cost per Acre	Acquisition Cost	Escrow/Other (4%)	Total
76 Acre High School/Middle School Site	\$188,048	\$14,291,648	\$571,666	\$14,863,314

Appendix B-4

Site Development Costs

Elk Grove Unified School District
Site Development Costs

Elementary School Site Development Costs

Site Development Category	Cost (\$)
Service Site Development	1,196,266
Off-Site Development	609,520
Utility Services	209,604
TOTAL	2,015,390
Cost per Student for 850 student School	2,371
Allowable Amount (50%)	1,186
Based upon Elementary #42 ("Anatolia I Elementary") School OPSC approval.	

Secondary School Site Development Costs

Site Development Category	Cost (\$)
Service Site Development	7,389,012
Off-Site Development	2,907,032
Utility Services	1,252,344
TOTAL	11,548,388
Cost per student for 3400 student 7-12 site	3,397
Allowable Amount (50%)	1,698
Based upon Cosumnes Oaks High School/Elizabeth Pinkerton Middle School OPSC Approval.	

General Site Acreage Allowance

	Acres	Grant/Acre	Total	Grant/Student
Elementary (K-6) Site	10	\$15,365	\$153,650	\$181
Middle & High School (Grades 7-12)	76	\$15,365	\$1,167,740	\$343

General Site Per Student Grant

	Percent	Base Grant	Per Student
Elementary (K-6)	6%	\$9,455	\$567
Middle (7-8)	6%	\$9,999	\$600
High School (9-12)	3.75%	\$12,721	\$477

Total Site Development Per Student

	Site Dev.	General Site	Total
Elementary (K-6)	\$1,186	\$748	\$1,934
Middle (7-8)	\$1,698	\$943	\$2,641
High School (9-12)	\$1,698	\$820	\$2,518
SDC Non-Severe*			\$2,236
SDC Severe*			\$2,234

*Weighted average of K-6 and 7-12 costs based on existing percentage of SDC students in K-6 and 7-12
Sources: Elk Grove Unified, 2012; Odell Planning & Research, Inc., 2012; State Allocation Board, 2012

Appendix B-5

Planned New School Facilities and Other School Projects

FUTURE SCHOOL FACILITIES

The following schools and other facilities have the potential for initial planning or construction within the next five years. For planning purposes, schools are designed well in advance of projected need in order to provide maximum flexibility for changing development within given regions or areas. For elementary schools, a minimum of two to three years for planning and construction is required prior to opening a new school. For high school/middle schools, a minimum of five to six years is required. Future student projections and funding availability may change the following: 1) the order in which schools are built; 2) the year in which school are built; and/or, 3) the number of schools built in any given year. Some projects may be dependent on the passage of future local and/or State bonds.

Elementary Schools

Marion Mix
New C.W. Dillard Elementary
"Anatolia II"
"Laguna Ridge #1"
Miwok Village
"North Vineyard Station #1"
"East Elk Grove South"
"Laguna Ridge #2"
"North Vineyard Station #2"

High School and Middle Schools

#10 High School/Middle School (Vineyard Area)
#11 High School/Middle School (Sunrise Douglas Area)

Alternative High Schools

Alternative #5
Alternative #6

Other Projects

Jesse Baker School Addition
Elk Grove Elementary School Addition
Franklin Elementary School Addition
Student Support Center Addition
Various Classroom Modifications/Additions to Accommodate Growth

Appendix C-1

Commercial/Industrial Development Projection

Appendix C-1

COMMERCIAL/INDUSTRIAL DEVELOPMENT PROJECTION

Commercial/Industrial development activity in the District from July 1, 2001 to June 30, 2011 is shown below on Table C-1A.

TABLE C-1A

**Elk Grove Unified School District
COMMERCIAL/INDUSTRIAL DEVELOPMENT 2001-2011**

Year	Commercial/Industrial Building Square Footage
2001-02	908,614
2002-03	1,373,661
2003-04	1,840,458
2004-05	1,816,597
2005-06	1,850,873
2006-07	1,558,686
2007-08	1,086,667
2008-09	643,810
2009-10	571,439
2010-11	167,414
Ten-Year Total	11,818,219
Ten-Year Average	1,181,822
Five-Year Total	4,028,016
Five-Year Average	805,603
Three-Year Total	1,382,663
Three-Year Average	460,888

Source: Elk Grove Unified School District Developer Fee Records

Table 2-1 indicates that developer fees were paid for 11,818,219 square feet of commercial/industrial development during the past ten years, ranging from a high of 1,850,873 square feet in 2005-06 to a low of 167,414 square feet in 2010-11. The annual average for the past ten years was 1,181,822 square feet. However, it is evident that during the past three years, commercial/industrial development has diminished substantially. As shown in Table C-1A, the five-year average was 805,603 square feet per year and the three-year average was lower still at 460,888 square feet.

While not reflected in Table C-1A, a significant increase in commercial/industrial development activity occurred within the District during the last six months of 2011.

During this six-month period alone, developer fees were paid for 505,747 square feet. Given the recent increase in commercial/industrial square footage and with the economy in the region starting to improve, the average of the past five years in Table C-1A (805,603 square feet per year) is used as a reasonable projection for near-term future development. Based on this average, approximately 4,028,000 square feet of commercial/industrial development would be permitted in the in the District during the next five years.

Board Agenda Item**Subject:** Board Policy 1321 – Solicitation of Funds From and By Students**Division:** Secondary Education**Action Requested:**

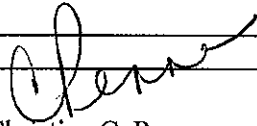
The Board is asked to read and approve amendments to Board Policy 1321, Solicitation of Funds From and By Students.

Discussion:

District staff has been advised by legal counsel to amend BP 1321, Solicitation of Funds From and By Students, to include language that clarifies the conditions under which students may be solicited for contributions to, or membership in, outside organizations.

Similar to Education Code 51520, Board Policy 1321 prohibits solicitations with the exception of those by nonpartisan, non-profit charitable organizations or by various, official school-related organizations, with prior approval from the Superintendent.

The amendment of BP 132 clarifies the conditions under which students may be approached for fund-raising and/or memberships.

Financial Summary:**Prepared By:** Christina C. Penna**Division Approval:** Christina C. Penna **Prepared By:** _____**Superintendent Approval:** Steven M. Ladd Ed.D 

Community Relations

BP 1321 (a)

SOLICITATION OF FUNDS FROM AND BY STUDENTS**Solicitations on Behalf of Non-school Charitable Organizations**

The Governing Board recognizes that fund-raising enables non-profit, nonpartisan charitable organizations to fulfill important, worthwhile goals. The school district, by example, can help students develop a true sense of social responsibility.

Funds may be solicited or materials distributed for those non-profit, nonpartisan organizations that are properly chartered or licensed by state or federal law. All such solicitations on school premises must be approved prior to any solicitation activity by the Board or designee. (Education Code 51520)

During school hours, and within one hour before the time of opening and within one hour after the time of closing of school, pupils of the public school shall not be solicited on school premises by teachers or others to subscribe or contribute to the funds of, to become members of, or to work for, any organization not directly under the control of the school authorities, unless the organization is a nonpartisan, charitable organization organized for charitable purposes by an act of Congress or under the laws of the state, the purpose of the solicitation is nonpartisan and charitable, and the solicitation has been approved by the county board of education or by the governing board of the school district in which the school is located.

Solicitations on Behalf of the School

Subject to the approval of the Superintendent or designee, official school-related organizations (PTA, booster club, etc.) may organize fund-raising events involving students. (cf. 1230 -Other School-Connected Organizations)

Prior approval from the Superintendent or designee shall be required for sales or solicitations whenever any portion of the funds raised is applied to the costs of the fund-raiser or to the costs of merchandise sold. (Education Code 51521) Prior approval from the Superintendent shall not be required if the total proceeds of a solicitation are delivered to the school without any deductions for expenses. (Education Code 51521)

The Superintendent or designee shall design procedures for insuring that parents/guardians are informed of the purpose of all fund-raisers benefiting the school or school groups. After the fund-raiser is held, parents/guardians shall be told how much money was raised and how it was spent. Parents/ guardians shall be encouraged to offer their suggestions for the use of money raised to improve school facilities or to finance supplementary educational experiences.

SOLICITATION OF FUNDS FROM AND BY STUDENTS (Continued)

Students making solicitations on behalf of the school or for school-related projects are expected to demonstrate courteous and respectful attitudes towards all individuals and businesses, whatever the outcome of the solicitation may be.

All Solicitations

Whether solicitations are made on behalf of the school or on behalf of another charitable organization, the Board particularly desires that no students shall be made to feel uncomfortable or pressured to provide funds which they or their families can ill afford. Staff is expected to emphasize the fact that donations are always voluntary. No students shall be barred from a school-related activity because they lack sufficient funds. (Education Code 35330 (d)) Clubs and other school organizations should develop rules or procedures that would protect the rights of students who do not participate in fund-raising activities.

The Board discourages the use of individual awards or other incentives which identify donors/participants.

~~Students making solicitations on behalf of the school or for school-related projects are expected to demonstrate courteous and respectful attitudes towards all individuals and businesses, whatever the outcome of the solicitation may be.~~

Legal Reference:

EDUCATION CODE

35330(b) No pupil shall be prevented from making the field trip or excursion because of lack of sufficient funds

51520 Prohibited solicitations on school premises (except such nonpartisan, charitable organizations as approved by the Governing Board)

51521 Unlawful solicitations of contribution or purchase of personal property for benefit of public school or student body; exception

BUSINESS AND PROFESSIONS CODE

17510-17510.7 Charitable solicitations

c.f. BP 4040.1 Employee Use of Email

Policy

Adopted: May 21, 1990
May 8, 2012

ELK GROVE UNIFIED SCHOOL DISTRICT
Elk Grove, California

Community Relations**BP 1321 (a)****SOLICITATION OF FUNDS FROM AND BY STUDENTS****Solicitations on Behalf of Non-school Charitable Organizations**

The Governing Board recognizes that fund-raising enables non-profit, nonpartisan charitable organizations to fulfill important, worthwhile goals. The school district, by example, can help students develop a true sense of social responsibility.

Funds may be solicited or materials distributed for those non-profit, nonpartisan organizations that are properly chartered or licensed by state or federal law. All such solicitations on school premises must be approved prior to any solicitation activity by the Board or designee. (Education Code 51520)

During school hours, and within one hour before the time of opening and within one hour after the time of closing of school, pupils of the public school shall not be solicited on school premises by teachers or others to subscribe or contribute to the funds of, to become members of, or to work for, any organization not directly under the control of the school authorities, unless the organization is a nonpartisan, charitable organization organized for charitable purposes by an act of Congress or under the laws of the state, the purpose of the solicitation is nonpartisan and charitable, and the solicitation has been approved by the county board of education or by the governing board of the school district in which the school is located.

Solicitations on Behalf of the School

Subject to the approval of the Superintendent or designee, official school-related organizations (PTA, booster club, etc.) may organize fund-raising events involving students. (cf. 1230 -Other School-Connected Organizations)

Prior approval from the Superintendent or designee shall be required for sales or solicitations whenever any portion of the funds raised is applied to the costs of the fund-raiser or to the costs of merchandise sold. (Education Code 51521) Prior approval from the Superintendent shall not be required if the total proceeds of a solicitation are delivered to the school without any deductions for expenses. (Education Code 51521)

The Superintendent or designee shall design procedures for insuring that parents/guardians are informed of the purpose of all fund-raisers benefiting the school or school groups. After the fund-raiser is held, parents/guardians shall be told how much money was raised and how it was spent. Parents/ guardians shall be encouraged to offer their suggestions for the use of money raised to improve school facilities or to finance supplementary educational experiences.

SOLICITATION OF FUNDS FROM AND BY STUDENTS (Continued)

Students making solicitations on behalf of the school or for school-related projects are expected to demonstrate courteous and respectful attitudes towards all individuals and businesses, whatever the outcome of the solicitation may be.

All Solicitations

Whether solicitations are made on behalf of the school or on behalf of another charitable organization, the Board particularly desires that no students shall be made to feel uncomfortable or pressured to provide funds which they or their families can ill afford. Staff is expected to emphasize the fact that donations are always voluntary. No students shall be barred from a school-related activity because they lack sufficient funds. (Education Code 35330 (d)) Clubs and other school organizations should develop rules or procedures that would protect the rights of students who do not participate in fund-raising activities.

The Board discourages the use of individual awards or other incentives which identify donors/participants.

Legal Reference:**EDUCATION CODE**

35330(b) No pupil shall be prevented from making the field trip or excursion because of lack of sufficient funds

51520 Prohibited solicitations on school premises (except such nonpartisan, charitable organizations as approved by the Governing Board)

51521 Unlawful solicitations of contribution or purchase of personal property for benefit of public school or student body; exception

BUSINESS AND PROFESSIONS CODE

17510-17510.7 Charitable solicitations

c.f. BP 4040.1 Employee Use of Email

Policy

Adopted: May 21, 1990

June 19, 2012

ELK GROVE UNIFIED SCHOOL DISTRICT

Elk Grove, California

Board Agenda Item**Subject:**Division: Student Support & Health Services

Second Reading of Board Policy 5131.2: Bullying

Action Requested:

The Board of Education is requested to adopt the new Board Policy 5132.2 governing Bullying, Cyberbullying, and Bullying Prevention and Intervention.

Discussion:

On June 5, 2012 the Board of Education was presented with the first reading of BP 5131.2.

This new policy has been written for compliance with recent legislation outlined in AB9, AB 1156, and AB 746.

- New Law (AB9) requires a policy prohibiting discrimination, harassment, intimidation, and bullying based on specified characteristics.
- New Law (AB 1156) outlines a number of provisions regarding bullying including identification of negative outcomes associated with bullying; duties of school personnel regarding bullying; and accommodations of victims of bullying.
- New Law (AB 746) expands the definition of bullying committed by means of an electronic act to include posting of messages on social media networks; and adds strategies for supervision and reporting of bullying incidents.

Board Policy 5131.2 includes statements correlating to these new laws and satisfies provisions to the statutes. In addition the Board Policy gives grounding to direction for school administrators regarding prevention and intervention efforts.

At this time the Board of Education is asked to approve and adopt the new Board Policy 5131.2 – Bullying.

Note: Policy will be forwarded prior to the Board meeting.

Financial Summary:

N/A

Prepared By: Carl J. Steinauer Division Approval:  Tom JenkinsSuperintendent Approval: Steven M. Ladd, Ed.D. 

Board Agenda Item**Subject:**Division: Student Support & Health Services

Second Reading of Board Policy 5145.3: Nondiscrimination/Harassment/Intimidation/Bullying

Action Requested:

The Board of Education is requested to adopt revised Board Policy 5145.3 governing Nondiscrimination/Harassment/Intimidation/Bullying.

Discussion:

On June 5, 2012 the Board of Education was presented with the first reading of BP 5145.3

In general the revisions in BP 5145.3 are mandated policy updates to reflect New Law (AB9) which requires the policy prohibiting discrimination, harassment, intimidation, and bullying be based on specified characteristics, including gender identity and gender expression. The revisions also add language (1) prohibiting retaliation against students who file a complaint or report, (2) requiring related training of students, parents/guardians, and employees, and (3) updating District points of contact for the Uniform Complaint Procedures.

At this time the Board of Education is asked to approve and adopt the revisions to Board Policy 5145.3 – Nondiscrimination/Harassment/Intimidation/Bullying

Financial Summary:

N/A

Prepared By: Carl J. Steinauer Division Approval:  Tom JenkinsSuperintendent Approval: Steven M. Ladd, Ed/D. 

Students

BP 5145.3(a)

NONDISCRIMINATION/HARASSMENT/INTIMIDATION/BULLYING

District programs and activities shall be free from discrimination, including harassment, intimidation ~~and~~ bullying based on a student's actual or perceived disability, gender, gender identity, gender expression, nationality, race, ethnicity, color, ancestry, religion, sexual orientation, age, marital or parental status, or association with a person or group with one or more of these actual or perceived characteristics. This policy applies to all acts related to school activity or school attendance occurring within a school under the jurisdiction of the District Superintendent.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 5131.2 - Bullying)

(cf. 6164.6 - Identification and Education Under Section 504)

The Governing Board shall ensure equal opportunities for students in admission and access to the educational programs, guidance and counseling programs, athletic programs, testing procedures, and other activities, regardless of a student's actual or perceived disability, gender, gender identity, gender expression, nationality, race, ethnicity, color, ancestry, religion, sexual orientation, age, marital or parental status, or association with a person or group with one or more of these actual or perceived characteristics. Lack of English language skills will not be a barrier to admission and participation in vocational-career technical education programs. Eligibility for cocurricular or extracurricular programs, such as choral and cheerleading, -groups shall be determined on the basis of objective competencies. School staff and volunteers shall carefully guard against segregation, bias and stereotyping in instruction, guidance and supervision.

(cf. 1240 - Volunteer Assistance)

(cf. 6145.2 - Interscholastic Competition)

(cf. 6162.5 - Standardized Testing)

In some situations, the district may have to provide individualized accommodation to a student to protect him/her from discrimination, harassment or bullying based upon gender identity or gender expression. Such an accommodation may include providing a student adequate access to appropriate facilities, such as restrooms. The schools may also provide male and female students with separate shower rooms and sex education classes in order to respect student modesty. In physical education, when objective standards have an adverse effect on students because of their gender, race, ethnic group or disability, other standards shall be used to measure achievement and create comparable educational opportunities.

Policies and procedures related to the types of unlawful discrimination, including harassment, intimidation and bullying described above must also be consistent with student free speech rights under the First Amendment and Education Code sections 48907 and 48950. Education Code section 48907 protects students' speech rights, except to the extent student speech is obscene, libelous, or slanderous, or constitutes speech that incites pupils as to create a clear and present danger of the commission of unlawful acts on school premises or the violation of lawful school regulations, or the substantial disruption of the orderly operation of the school. Education Code 48950 provides that no district with one or more high schools shall make or enforce any rule subjecting a high school student to disciplinary sanctions solely on the basis of speech or other

communication that would be constitutionally protected if engaged in outside of campus.
Education Code 48950 states that it does not prohibit discipline for harassment, threats or

NONDISCRIMINATION/HARASSMENT/INTIMIDATION/BULLYING (continued)

intimidation unless constitutionally protected. As a general rule, harassment, threats, intimidation and bullying directed at an individual or group are not constitutionally protected, and whether such speech might be entitled to constitutional protection will be determined on a case-by-case basis, with consideration for the specific words used and the circumstances involved. This assessment will also question whether the conduct is prohibited because it is based upon a person's actual or perceived disability, gender, gender identity, gender expression, nationality, race, ethnicity, color, ancestry, religion, sexual orientation, age, marital or parental status, or association with a person or group with one or more of these actual or perceived characteristics.

Prohibited discrimination, harassment, intimidation ~~and~~ or bullying includes physical, verbal, nonverbal, or written conduct based on one of the categories listed above that is so severe and pervasive that it affects a student's ability to participate in or benefit from an educational program or activity; creates an intimidating, threatening, hostile, or offensive educational environment; has the effect of substantially or unreasonably interfering with a student's academic performance; or otherwise adversely affects a student's educational opportunities.

The Board prohibits discrimination, harassment, intimidation ~~and~~ or bullying of any student by an employee, student or other person in the district based on actual or perceived disability, gender, gender identity, gender expression, nationality, race, ethnicity, color, ancestry, religion, sexual orientation, age, marital or parental status, or association with a person or group with one or more of these actual or perceived characteristics. District staff shall be on the alert ~~for~~ and immediately responsive to such student conduct which may interfere with another student's ability to participate in or benefit from school services, activities or privileges. If district staff witnesses an action of discrimination, harassment, intimidation ~~or~~ and bullying, he or she must take immediate steps to intervene when safe to do so.

The district prohibits retaliatory behavior against any complainant or any participant in the complaint process. Each complaint of discrimination, harassment, intimidation ~~and~~ or bullying shall be promptly investigated in a way that respects the privacy of all parties concerned.

(cf. 5131.2 - Bullying)

(cf. 5145.2 - Freedom of Speech/Expression: Publications Code)

(cf. 5145.7 - Sexual Harassment)

Students who harass, intimidate or bully other students on these prohibited bases shall be subject to appropriate counseling and discipline, up to and including expulsion. An employee who permits or engages in such harassment, intimidation ~~and~~ or bullying may be subject to disciplinary action, up to and including dismissal.

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4218 - Dismissal/Suspension/disciplinary Action)

(cf. 5131.2 - Bullying)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

Students

BP 5145.3(c)

NONDISCRIMINATION/HARASSMENT/INTIMIDATION/BULLYING (continued)

Any student who feels that he/she is being discriminated against, harassed, intimidated or bullied because of actual or perceived disability, gender, gender identity, gender expression, nationality, race, ethnicity, color, ancestry, religion, sexual orientation, age, marital or parental status, or association with a person or group with one or more of these actual or perceived characteristics, should immediately contact the principal or designee; and if unable to contact the principal or designee, such a student should immediately contact any other member of district staff. In addition to informal resolution of complaints of discrimination, harassment, intimidation and bullying at the site level through a complaint to the site principal or designee, a written complaint can be filed in accordance with the district's Uniform Complaint Procedures (BP/AR 1312.3). Policies explaining complaint procedures are available at all school sites and at the Education Center.

(cf. 1312.3 - Uniform Complaint Procedures)

In the event ~~of you have~~ a complaint regarding gender equity or sexual harassment, or discrimination, including harassment, intimidation ~~or~~ and bullying because of actual or perceived disability, gender, gender identity, gender expression, nationality, race, ethnicity, color, ancestry, religion, sexual orientation, age, marital or parental status, or association with a person or group with one or more of these actual or perceived characteristics, contact one of the following Title IX and Nondiscrimination Coordinators:

For complaints against employees:

Associate Superintendent, Human Resources, (916) 686-7795; 9510 Elk Grove-Florin Road, Elk Grove, CA 95624.

Formatted: Indent: Left: 0.5"

For student against student complaints:

Associate Superintendent, PreK-6 Education, (916) 686-7704, ; 9510 Elk Grove-Florin Road, Elk Grove, CA 95624; or

Associate Superintendent, Secondary Education, (916) 686-7706, 9510 Elk Grove-Florin Road, Elk Grove, CA 95624.

In the event ~~of that you have a~~ complaint regarding discrimination based upon an actual or perceived mental or physical disability, ~~you should~~ contact the District's Director of Student Support and Health Services (916) 686-7797, 9510 Elk Grove-Florin Road, Elk Grove, CA 95624.

Legal Reference:

CIVIL CODE

1714.1 Liability of parents/guardians for willful misconduct minor

EDUCATION CODE

40 Prohibited sex discrimination

41 School-sponsored athletic programs; prohibited sex discrimination

200 *et seq.* Prohibition of discrimination on the basis of sex

48900-48925 Suspension or expulsion

Students

BP 5145.3(d)

NONDISCRIMINATION/HARASSMENT/INTIMIDATION/BULLYING (continued)

48900.2 Suspension or expulsion for sexual harassment
48900.3 Suspension or expulsion for act of hate violence
48900.4 Suspension or expulsion for threats or harassment
48904 Liability of parent/guardian for willful student misconduct
48907 Student exercise of free expression
48950 Freedom of speech
49020 *et seq.* Athletic programs
51006 *et seq.* Equitable access to technological education programs
51500 Prohibited instruction or activity
51501 Prohibited means of instruction
60044 Prohibited instructional materials
CODE REGULATIONS, TITLE 5
4621 District policies and procedures
4622 Notice Requirements
PENAL CODE
422.5 Definition of hate crime
UNITED STATES CODE, TITLE 42
2000d & 2000e *et seq.* Title VI & VII, Civil Rights Act of 1964 as amended
2000h-2 *et seq.* Title IX, 1972 Education Act Amendments
CODE OF FEDERAL REGULATIONS, TITLE 34
100.3a Prohibition of discrimination on basis of race, color or national origin
106.8 Designation of responsible employee
106.9 Notification of nondiscrimination on basis of sex

Policy

Adopted: October 29, 1984

Revised: June 19, 1995

April 6, 1998

June 7, 1999

July 1, 2002

June__, 2012

ELK GROVE UNIFIED SCHOOL DISTRICT

Elk Grove, California

NONDISCRIMINATION/HARASSMENT/INTIMIDATION/BULLYING

District programs and activities shall be free from discrimination, including harassment, intimidation and bullying based on a student's actual or perceived disability, gender, gender identity, gender expression, nationality, race, ethnicity, color, ancestry, religion, sexual orientation, age, marital or parental status, or association with a person or group with one or more of these actual or perceived characteristics. This policy applies to all acts related to school activity or school attendance occurring within a school under the jurisdiction of the District Superintendent.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 5131.2 - Bullying)

(cf. 6164.6 - Identification and Education Under Section 504)

The Governing Board shall ensure equal opportunities for students in admission and access to educational programs, guidance and counseling programs, athletic programs, testing procedures, and other activities, regardless of a student's actual or perceived disability, gender, gender identity, gender expression, nationality, race, ethnicity, color, ancestry, religion, sexual orientation, age, marital or parental status, or association with a person or group with one or more of these actual or perceived characteristics. Lack of English language skills will not be a barrier to admission and participation in career technical education programs. Eligibility for cocurricular or extracurricular programs, such as choral and cheerleading, shall be determined on the basis of objective competencies. School staff and volunteers shall carefully guard against segregation, bias and stereotyping in instruction, guidance and supervision.

(cf. 1240 - Volunteer Assistance)

(cf. 6145.2 - Interscholastic Competition)

(cf. 6162.5 - Standardized Testing)

In some situations, the district may have to provide individualized accommodation to a student to protect him/her from discrimination, harassment or bullying based upon gender identity or gender expression. Such an accommodation may include providing a student adequate access to appropriate facilities, such as restrooms. The schools may also provide male and female students with separate sex education classes in order to respect student modesty. In physical education, when objective standards have an adverse effect on students because of their gender, race, ethnic group or disability, other standards shall be used to measure achievement and create comparable educational opportunities.

Policies and procedures related to the types of unlawful discrimination, including harassment, intimidation and bullying described above must also be consistent with student free speech rights under the First Amendment and Education Code sections 48907 and 48950. Education Code section 48907 protects students' speech rights, except to the extent student speech is obscene, libelous, or slanderous, or constitutes speech that incites pupils as to create a clear and present danger of the commission of unlawful acts on school premises or the violation of lawful school regulations, or the substantial disruption of the orderly operation of the school. Education Code 48950 provides that no district with one or more high schools shall make or enforce any rule subjecting a high school student to disciplinary sanctions solely on the basis of speech or other communication that would be constitutionally protected if engaged in outside of campus. Education Code 48950 states that it does not prohibit discipline for harassment, threats or

NONDISCRIMINATION/HARASSMENT/INTIMIDATION/BULLYING (continued)

intimidation unless constitutionally protected. As a general rule, harassment, threats, intimidation and bullying directed at an individual or group are not constitutionally protected, and whether such speech might be entitled to constitutional protection will be determined on a case-by-case basis, with consideration for the specific words used and the circumstances involved. This assessment will also question whether the conduct is prohibited because it is based upon a person's actual or perceived disability, gender, gender identity, gender expression, nationality, race, ethnicity, color, ancestry, religion, sexual orientation, age, marital or parental status, or association with a person or group with one or more of these actual or perceived characteristics.

Prohibited discrimination, harassment, intimidation and bullying includes physical, verbal, nonverbal, or written conduct based on one of the categories listed above that is so severe and pervasive that it affects a student's ability to participate in or benefit from an educational program or activity; creates an intimidating, threatening, hostile, or offensive educational environment; has the effect of substantially or unreasonably interfering with a student's academic performance; or otherwise adversely affects a student's educational opportunities.

The Board prohibits discrimination, harassment, intimidation and bullying of any student by an employee, student or other person in the district based on actual or perceived disability, gender, gender identity, gender expression, nationality, race, ethnicity, color, ancestry, religion, sexual orientation, age, marital or parental status, or association with a person or group with one or more of these actual or perceived characteristics. District staff shall be on the alert for and immediately responsive to student conduct which may interfere with another student's ability to participate in or benefit from school services, activities or privileges. If district staff witnesses an action of discrimination, harassment, intimidation and bullying, he or she must take immediate steps to intervene when safe to do so.

The district prohibits retaliatory behavior against any complainant or any participant in the complaint process. Each complaint of discrimination, harassment, intimidation and bullying shall be promptly investigated in a way that respects the privacy of all parties concerned.

(cf. 5131.2 - Bullying)

(cf. 5145.2 - Freedom of Speech/Expression: Publications Code)

(cf. 5145.7 - Sexual Harassment)

Students who harass, intimidate or bully other students on these prohibited bases shall be subject to appropriate counseling and discipline, up to and including expulsion. An employee who permits or engages in such harassment, intimidation and bullying may be subject to disciplinary action, up to and including dismissal.

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4218 - Dismissal/Suspension/disciplinary Action)

(cf. 5131.2 - Bullying)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

NONDISCRIMINATION/HARASSMENT/INTIMIDATION/BULLYING (continued)

Any student who feels that he/she is being discriminated against, harassed, intimidated or bullied because of actual or perceived disability, gender, gender identity, gender expression, nationality, race, ethnicity, color, ancestry, religion, sexual orientation, age, marital or parental status, or association with a person or group with one or more of these actual or perceived characteristics, should immediately contact the principal or designee; and if unable to contact the principal or designee, such a student should immediately contact any other member of district staff. In addition to informal resolution of complaints of discrimination, harassment, intimidation and bullying at the site level through a complaint to the site principal or designee, a written complaint can be filed in accordance with the district's Uniform Complaint Procedures (BP/AR 1312.3). Policies explaining complaint procedures are available at all school sites and at the Education Center.

(cf. 1312.3 - Uniform Complaint Procedures)

In the event of a complaint regarding gender equity or sexual harassment, or discrimination, including harassment, intimidation and bullying because of actual or perceived disability, gender, gender identity, gender expression, nationality, race, ethnicity, color, ancestry, religion, sexual orientation, age, marital or parental status, or association with a person or group with one or more of these actual or perceived characteristics, contact one of the following Title IX and Nondiscrimination Coordinators:

For complaints against employees:

Associate Superintendent, Human Resources, (916) 686-7795; 9510 Elk Grove-Florin Road, Elk Grove, CA 95624.

For student against student complaints:

Associate Superintendent, PreK-6 Education, (916) 686-7704, ; 9510 Elk Grove-Florin Road, Elk Grove, CA 95624; or

Associate Superintendent, Secondary Education, (916) 686-7706, 9510 Elk Grove-Florin Road, Elk Grove, CA 95624.

In the event of a complaint regarding discrimination based upon an actual or perceived mental or physical disability, contact the District's Director of Student Support and Health Services (916) 686-7797, 9510 Elk Grove-Florin Road, Elk Grove, CA 95624.

Legal Reference:

CIVIL CODE

1714.1 Liability of parents/guardians for willful misconduct minor

EDUCATION CODE

40 Prohibited sex discrimination

41 School-sponsored athletic programs; prohibited sex discrimination

200 *et seq.* Prohibition of discrimination on the basis of sex

48900-48925 Suspension or expulsion

NONDISCRIMINATION/HARASSMENT/INTIMIDATION/BULLYING (continued)

48900.2 Suspension or expulsion for sexual harassment
48900.3 Suspension or expulsion for act of hate violence
48900.4 Suspension or expulsion for threats or harassment
48904 Liability of parent/guardian for willful student misconduct
48907 Student exercise of free expression
48950 Freedom of speech
49020 *et seq.* Athletic programs
51006 *et seq.* Equitable access to technological education programs
51500 Prohibited instruction or activity
51501 Prohibited means of instruction
60044 Prohibited instructional materials

CODE REGULATIONS, TITLE 5

4621 District policies and procedures
4622 Notice Requirements

PENAL CODE

422.5 Definition of hate crime

UNITED STATES CODE, TITLE 42

2000d & 2000e *et seq.* Title VI & VII, Civil Rights Act of 1964 as amended
2000h-2 *et seq.* Title IX, 1972 Education Act Amendments

CODE OF FEDERAL REGULATIONS, TITLE 34

100.3a Prohibition of discrimination on basis of race, color or national origin
106.8 Designation of responsible employee
106.9 Notification of nondiscrimination on basis of sex

Policy

Adopted: October 29, 1984

Revised: June 19, 1995

April 6, 1998

June 7, 1999

July 1, 2002

June __, 2012

ELK GROVE UNIFIED SCHOOL DISTRICT
Elk Grove, California

ELK GROVE UNIFIED SCHOOL DISTRICT

Agenda Item No: 16

Board Agenda Item

Supplement No. _____

Meeting Date 6-19-12

Subject: Approval of Minutes

Department: Board of Education

Action Requested: Approve minutes of the regular board meeting held June 5, 2012.

Discussion:

Financial Summary:

Prepared By: Arlene Hein Department Approval: _____

Prepared By: _____ Superintendent Approval: Steven M. Ladd, Ed.D. 

Board Agenda Item**Subject:** Personnel Actions**Division:** Human Resources**Action Requested:**

Recommend the Board of Education approve the personnel actions as attached.

Discussion:**CERTIFICATED:**


APPROVE:

1. Leave(s) of Absence
2. Resignation(s)
3. Retirement(s)
4. Returning from Leave(s)

CLASSIFIED:

APPROVE:

1. New Hire(s) [3]
2. Leave(s) of Absence
3. Resignation(s)
4. Retirement (s)

Financial Summary:Prepared by: Brandon Krueger, Ed.D Departmental Approval: Glen De Graw Prepared by: Evelyn Laluan Superintendent Approval: Steven M. Ladd, Ed.D 

Board Agenda Item

Supplement No.: _____

Meeting Date: June 19, 2012**Subject:**Department: Human Resources

Resolution of Intention to Authorize Payment of Salary Difference Benefit for an Employee who has been activated for Active Military Duty.

Action Requested:

Approval of Resolution to Authorize Payment of Salary Difference Benefit for an employee who has been activated for Active Military Duty.

Discussion:

An employee request for 180 day differential pay due to military leave has been received.

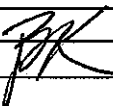
Current Board Policy allows for compensation for the first thirty (30) calendar days of an absence for military training, encampment, naval cruises, special exercises, or like activity (covered in the Military and Veterans Code 395, 395.01).

There is currently no Board Policy nor an applicable section of the requestor's collective bargaining agreement providing differential pay for District employees called into active military duty. However, California Education Code section 44018 provides that any employee of a school district who, as a member of the California National Guard or a United States Military Reserve organization, is called into active military duty, may receive, on approval of the governing board, the difference between the amount of his/her military pay and the amount the employee would have received as an employee, for a period not to exceed 180 calendar days.

It is confirmed that the requesting employee meets the qualifications for this benefit. It is requested of the Board to approve the Resolution and authorize the differential benefit to be applied in this specific situation for the requesting employee.

Financial Summary:

The estimated **gross** differential payment for this request is approximately \$98.66 per day (*approximately a net differential payment of \$78.93 per day*), not to exceed 180 days as prescribed in the above statute.

Prepared By: Brandon Krueger, Ed. D.  Division Approval: Glen De GrawPrepared By: _____ Superintendent Approval: Steven M. Ladd, Ed.D. 

A RESOLUTION OF THE BOARD OF EDUCATION OF THE
ELK GROVE UNIFIED SCHOOL DISTRICT

**RESOLUTION OF INTENTION TO AUTHORIZE PAYMENT OF SALARY
DIFFERENCE BENEFIT TO EMPLOYEE WHO HAS BEEN
ACTIVATED FOR ACTIVE MILITARY DUTY**

WHEREAS, the Governing Board of the ELK GROVE UNIFIED SCHOOL DISTRICT (“District”) has determined that Employee No. 127418, a District employee, has been involuntarily called into active military duty; and

WHEREAS, this employee and employee’s family may suffer a reduction of income as a result of being called into active military duty; and

WHEREAS, neither District Board Policy nor the applicable collective bargaining agreement provide differential pay for District employees called into active military duty; and

WHEREAS, Education Code sections 35160 and 35160.1 grant the Board broad authority to take any actions or carry out any activities not otherwise in conflict with law; and

WHEREAS, Education Code section 44018 provides that any employee of a school district who, as a member of the California National Guard or a United States Military Reserve organization, is called into active military duty, may receive, on approval of the governing board of the school district, the difference between the amount of his military pay and allowances and the amount the employee would have received as an employee, for a period not to exceed 180 calendar days; and

WHEREAS, Elk Grove Unified School District is supportive of the employees who have been called into active military duty and finds that it furthers the public’s interest to provide the employee with the difference between the amount of the employee’s military pay and the amount that the employee would have received as a District employee, for a period not to exceed 180 calendar days; and

THEREFORE, BE IT RESOLVED, by the Board of Education of Elk Grove Unified School District that differential pay for Employee No. 127418, as a qualified employee who has been called into active military duty, is approved for a period not to exceed 180 calendar days.

BE IT FURTHER RESOLVED, the Department of Human Resources is hereby authorized to take any and all necessary and proper actions to consummate the intent of this Resolution, including, but not limited to, notification to Employee No. 127418, verifying qualified employee’s military pay, and the timing and method in which payments will be made pursuant to this Resolution.

PASSED and ADOPTED by the Governing Board of the Elk Grove Unified School District this
____ day of June, 2012.

AYES _____

NOES _____

ABSENT _____

ABSTENTION _____

GOVERNING BOARD OF THE
ELK GROVE UNIFIED SCHOOL DISTRICT

President

Board Agenda Item**Subject:**

BenefitBridge Access and Use Services Agreement

Department: Finance & School Support**Action Requested:**

The Board is requested to approve the attached services agreement with Keenan and Associates beginning on April 1, 2012 and ending on March 31, 2013.

Discussion:

Keenan and Associates has had a long-standing business relationship with the district to provide health benefits brokerage services. Keenan is very knowledgeable of the district's benefit history and has developed the BenefitBridge web based software platform that will allow real time access to employee benefit information by Payroll and Benefits staff to get current status or make changes.

Financial Summary:

No cost to the district

Prepared By: Rich FaganDivision Approval: Rich Fagan 

Prepared By: _____

Superintendent Approval: Steven M. Ladd, Ed.D. 

BENEFITBRIDGE SERVICES AGREEMENT

This **BenefitBridge Services Agreement** ("Agreement") is made and entered into by and between **Elk Grove Unified School District** ("Client") and **Keenan & Associates** ("Keenan"), as of **April 1, 2012** ("Effective Date").

WHEREAS, Client offers its employees and their dependents an Employee Benefits Program (the "Program");

WHEREAS, Keenan offers a web-based application named BenefitBridge (the "Platform") which provides services for their Users (employers, employees and employees' dependents) to manage, view and control various aspects of employee benefits programs;

WHEREAS, Client desires to gain access to and use of the Platform to support Client's Program pursuant to the terms of this Agreement;

NOW, therefore, in consideration of the mutual obligations contained herein, the Parties agree as follows:

1. TERM

The term of this Agreement is from the **April 1, 2012** ("Effective Date") through **March 31, 2013** ("Termination Date") and shall automatically renew for subsequent one (1) year periods unless either party gives the other at least sixty (60) days written notice of its intent not to renew.

2. KEENAN SERVICES AND RELATIONSHIP OF THE PARTIES

- A. The services provided by Keenan under this Agreement shall be limited to the Platform Services described in Exhibit A, the terms of which are incorporated herein by reference. Client shall remain responsible for all other aspects of the Program.
- B. Keenan agrees that for the purposes of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Keenan is considered a Business Associate of Client and, therefore, agrees to comply with the terms and conditions of, 45 CFR, Subchapter C, Part 160 et seq., with respect to the Privacy and Security Standards of HIPAA and will execute a Business Associate Agreement with the Client.
- C. In addition, Keenan agrees to the following, with respect to the use, disclosure and ownership of data:
 - 1. Ownership of data: Client is the owner of the data inputted into the Platform.
 - 2. Permitted uses: Keenan shall be allowed to create and use Aggregated Data (combination of data inputted by Client with similar information inputted into the Platform by other Keenan Clients) for the purposes of running trend reports and

for benchmarking purposes. Keenan shall own all right, title and interest in and to the Aggregated Data.

3. Reports: Client and Keenan are allowed to run various reports from the information inputted into the Platform as outlined in Exhibit A.
- D. Keenan shall not provide any legal, tax, or accounting service, advice, or opinion, and the Services shall not be interpreted as representing any such service, advice or opinion. Client shall consult its own attorney on all legal issues, and its own tax and accounting experts on all tax, accounting, and financial matters relating to its operations, including without limitation, the establishment and/or operation of the Plans.
- E. The relationship of Keenan and Client shall be that of an independent contractor and Keenan shall at all times remain responsible for its own operational and personnel expenses. Under no circumstance shall any employee of one party look to the other party for any payment or the provision of any benefit, including without exception, workers' compensation coverage. Except as may be expressly set forth in or contemplated by this Agreement, neither party shall have the right to act on behalf of the other, or to bind the other to any contract or other obligation.
- F. Keenan's responsibility to Client, upon notification by Client of a Platform's failure to perform or upon Keenan's discovery of such failure, is expressly limited to the use of all reasonable commercial methods available to search for the failure and fix it within a reasonable period of time. If the problems encountered cannot be fixed, Client's sole remedy is to cease using the Platform.
- G. Keenan shall assist Client with the transfer of certain information into the Platform such as the eligibility rules.

3. CLIENT'S RESPONSIBILITIES

- A. Client shall provide Keenan with timely access to such information and individuals, including its outside advisors and consultants, as may be necessary for Keenan to perform the Services. Keenan shall not be responsible for any delay in its performance that results from the failure of Client, or any person acting on behalf of Client, to make available any information or individual in a timely manner.
- B. All information provided to Keenan by Client, either in anticipation of or during the term of this Agreement, shall be complete and accurate, and Keenan may rely upon such information.
- C. Client agrees that the Platform is intended for the use of its employees and their dependents. Client shall not provide access to the Platform to any other party or entity without the written consent of Keenan.
- D. Client agrees to use the Platform only for the purposes set forth in this Agreement and that it shall not at any time: (i) create any derivative work based on the Platform Services,

except for the reports that Client is allowed to run from the Platform; (ii) copy or modify the Platform services in any form.

- E. Client shall immediately notify Keenan upon termination of any employee who has been given administrative rights to the BenefitBridge system so that Keenan can take such steps as may be necessary to terminate all such rights.

4. **COMPENSATION TO KEENAN**

The Set-up Fee and the Monthly Maintenance Fee for the services rendered under this Agreement will be waived.

Keenan shall receive \$1.13 per enrolled member per month from Medical Carriers in consideration for Medical Carriers' savings with regards to the provision of its services that is generated by the use of BenefitBridge by Medical Carrier, Keenan and Client. The consideration paid by Medical Carrier to Keenan does not affect the pricing of the services that Medical Carrier provides to Client. Any such compensation shall be retained by Keenan to offset the cost of operating the BenefitBridge platform and shall not be credited toward any consulting or other fees owed by Client to Keenan. Keenan will notify and disclose to the Client any changes to the compensation agreement with the carrier(s).

5. **INSURANCE**

Keenan shall procure and maintain during the term of this Agreement the following insurance coverages, and shall provide certificates of insurance to Client upon Client's request.

1. Workers' Compensation: Coverage in conformance with the laws of the State of California and applicable federal laws;
2. General Liability: Coverage (including motor vehicle operation) with a One Million Dollar (\$1,000,000) limit of liability for each occurrence and a Two Million Dollar (\$2,000,000) aggregate limit of liability; and
3. Errors and Omissions: Coverage with a One Million Dollar (\$1,000,000) limit of liability for each occurrence and a Two Million Dollar (\$2,000,000) aggregate limit of liability.

6. **CONFIDENTIALITY**

- A. As a result of their relationship under this Agreement each party may gain access to confidential information concerning the other. For purposes of this Agreement, the term "Confidential Information" includes, without limitation, i) any information or data about a party's business operations, clients, employees, marketing plans, method of operation, trade secrets, and financial performance; ii) information about any individual participating in the Programs, such as name, address, social security number, compensation, and medical history, and iii) any other information about a party that is not available to the general public. Neither party shall, without the written consent of

the other release, disclose, or disseminate the other party's Confidential Information except as is necessary for the performance of the Services.

- B. In the event that either party becomes the subject of a subpoena or court order compelling the disclosure of the other party's Confidential information, that party shall immediately notify the other so that the party whose Confidential Information is being sought can take such action as may be necessary to prevent or limit the release of its Confidential Information.
- C. Neither party shall be deemed to be in breach of this Section 6 if it has notified the other before it releases the Confidential Information pursuant to a subpoena or court order, and the party whose Confidential Information was requested fails to provide, before the deadline for disclosure, a copy of court order quashing the subpoena or otherwise limiting the original demand for the Confidential Information.

7. WARRANTY DISCLAIMERS

- A. Client understands that the services, the Platform and the content related thereto are provided on an informational basis only and are not intended and shall not be taken to substitute professional medical advice, diagnosis or treatment.
- B. Keenan does not warrant and is not responsible for any third-party products or services and Client understands that its sole and exclusive rights and remedies with respect to any third-party products or services are against the third-party vendor and not against Keenan.
- C. Subject to the specific services set forth herein, Keenan shall not be responsible for any damages that Client or its authorized participants suffer or incur because of their failure to (i) seek the advice of a physician or other qualified health provider in connection with any medical condition; (ii) comply with professional medical advice; or (iii) delay to seek medical advice for any reason, including but not limited to, information provided in connection with the services, the Platform and any content related thereto.
- D. If either party breaches this Agreement, then the breaching party shall defend, indemnify and hold harmless the non-breaching party, its officers, agents and employees against all claims, losses, demands, actions, liabilities, and costs (including, without limitation, reasonable attorneys' fees and expenses) arising from such breach. In addition, if Keenan (i) becomes the subject of a subpoena or is otherwise compelled to testify or (ii) becomes the subject of a claim, demand, action or liability brought or asserted by one of Client's employees, Plan beneficiaries, or Plan vendors ("Third-Party Demand") relating to the Services and such Third-Party Demand is not a direct result of Keenan's negligence or willful misconduct, then Client shall defend, indemnify and hold Keenan harmless from all losses, payments, and expenses incurred by Keenan in resolving such Third-Party Demand.

8. **LIMITATION OF LIABILITY**

Notwithstanding anything to the contrary in this Agreement, in no event shall either party be liable for any punitive damages, fines, penalties, taxes or any indirect, incidental, or special damages incurred by the other party, its officers, employees, agents, contractors or consultants whether or not foreseeable and whether or not based in contract or tort claims or otherwise, arising out of or in connection with this Agreement even if advised of the possibility of such damage.

Keenan's liability to Client shall not exceed the amount actually paid by Client under the Brokerage/Consulting Agreement effective as of **November 1, 2011**, during the period of six (6) months preceding the occurrence of the alleged damage.

9. **DISPUTE RESOLUTION**

- A. Disputes arising out of or relating to this Agreement, other agreements between the parties, or any other relationship involving Client and Keenan (whether occurring prior to, as part of, or after the signing of this Agreement) shall first be resolved by good faith negotiations between representatives of the parties with decision-making authority. If either party determines that the dispute cannot be resolved through informal negotiation then the dispute shall be submitted to non-binding mediation. The site of the mediation and the selection of a mediator shall be determined by mutual agreement of the parties. If the dispute is not resolved through mediation within sixty (60) days following the first notification of a request to mediate, then either party shall have the right to require the matter to be resolved by final and binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, or such other arbitration procedures as may be agreed to in writing by the Parties. Negotiation, mediation, and arbitration shall be the exclusive means of dispute resolution between Client and Keenan and their respective members, agents, employees and officers.
- B. Arbitration shall be before a single arbitrator in the County of Sacramento, California. The Arbitrator shall apply the Federal Arbitration Act and California substantive law, and shall accompany the award with a reasoned opinion. The arbitrator shall have no authority to award punitive or other damages not measured by the prevailing party's actual damages. The prevailing party shall be entitled to an award of reasonable attorneys' fees. A judgment of any court having jurisdiction may be entered upon the award.
- C. Either party may apply to the arbitrator seeking injunctive relief until the arbitration award is rendered or the controversy is otherwise resolved. Either party also may, without waiving any remedy under this Agreement, seek from any court having jurisdiction any interim or provisional relief that is necessary to protect the rights or property of that party, pending the establishment of the arbitral tribunal (or pending the arbitral tribunal's determination of the merits of the controversy).

10. TERMINATION

- A. The term of this Agreement shall be in effect until the termination date specified in Section 1 above, unless terminated in accordance with this Section, in which case until the occurrence date. This Agreement shall be terminated immediately upon:
1. The filing of a voluntary petition (or an involuntary petition that remains unstayed for sixty (60) days) in bankruptcy by (against) either Party to this Agreement; or the dissolution or insolvency of Client;
 2. The enactment of any government or regulatory authority, agency or federal or state court law, rule or regulation, or the adoption of new interpretations of existing laws, rules or regulations, or the issuance of any order or policy, which renders the continued performance by either party under this Agreement unlawful;
 3. The breach of this Agreement by the other party, but only after the terminating party has given written notice of the breach to the other party, and such breach continues unremedied for a period of thirty (30) days after such notice.
- B. Keenan shall have the right to terminate this Agreement upon Client's notification of its decision to change its Broker of Record for any of the following lines of coverage: **Medical, Dental, Vision and Life Insurance**.
- C. This Agreement may be terminated by either Party upon ninety (90) days notice.
- D. Any continued performance by the non-breaching party shall not be construed as a waiver of the other party's right to terminate the Agreement under this section.
- E. All terms of this Agreement (other than Keenan's obligation to provide services and Client's obligation to pay for future services), shall survive the expiration or termination of this Agreement.

11. GENERAL

- A. This Agreement, its recitals and all attached exhibits constitute the entire understanding of the parties related to the subject matter of the Agreement, and supersede all prior and collateral statements, presentations, communications, reports, agreements or understandings, if any, related to such matter(s).
- B. Notwithstanding any provision herein to the contrary, this Agreement is not intended and shall not be construed as creating or conferring any rights or remedies on any third parties that are not Parties to the Agreement. Enforcement of any remedy for breach of this Agreement may only be pursued by the Parties to this Agreement.
- C. No modification or amendment to this Agreement shall be binding unless in writing and signed by authorized representatives of both parties. Any waiver or delay by a party in enforcing this Agreement shall not deprive that party of the right to take appropriate

action at a later time or due to another breach. This Agreement shall be interpreted as if written jointly by the parties.

- D. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any of the other provisions of this Agreement, all of which shall remain in full force and effect.
- E. This Agreement may not be assigned by either Party without the prior written consent of the other Party.
- F. Neither party shall be liable or deemed to be in default for any delay or failure in performance under this Agreement resulting, directly or indirectly, from acts of God, civil or military authority, acts of public enemy, war, accidents, fires, explosions, earthquakes, floods, power outages, failure of computer systems, machinery or supplies, vandalism, strikes, or other work interruptions, or any similar or other cause that is beyond the reasonable control of either party. Each party shall make a good faith effort to perform under this Agreement in the event of any such circumstances, and shall resume full performance of its contract duties once the cause of the delay has abated.
- G. In the event of any dispute relating to this Agreement, the prevailing party shall be entitled to recover attorneys' fees and costs, including but not limited to, those incurred in resolving the dispute.
- H. All notices hereunder shall be in writing and shall be sent to the parties at the addresses as set forth below, or to such other individual or address as a party may later designate. Notices shall be sent via personal delivery, courier service, United States mail (postage pre-paid, return receipt requested), express mail service, electronic mail, or fax. Notice shall be effective when delivered, or if refused, when delivery is attempted. Notices delivered during non-working hours shall be deemed to be effective as of the next business day.

If the notice relates to a legal matter or dispute, a copy shall be sent to:

Keenan & Associates
2355 Crenshaw Blvd., Ste. 200
Torrance, CA 90501
Attn: Legal Department
Fax: (310) 533-0573

- K. This Agreement may be executed in counterparts and by fax signatures and each shall be deemed to be an original.
- L. Each person signing this Agreement on behalf of a party represents and warrants that he or she has the necessary authority to bind such party and that this Agreement is binding

on and enforceable against such party.

<u>Elk Grove Unified School District</u>		<u>Keenan & Associates</u>	
<u>Signature:</u>		<u>Signature:</u>	
<u>By:</u>		<u>By:</u>	John Scatterday
<u>Title:</u>		<u>Title:</u>	Senior Vice President
<u>Address:</u>		<u>Address:</u>	2355 Crenshaw Blvd., Ste. 200
			Torrance, CA 90501
<u>Telephone:</u>		<u>Telephone:</u>	310 212-0363
<u>Fax:</u>		<u>Fax:</u>	
<u>Attention:</u>		<u>Attention:</u>	Ralph Gowen

EXHIBIT A

Platform Services and Reports

1. **Platform Services and Reports:**

A. The Platform provides the following services:

1. Benefit administration functionality including the ability to manage eligibility rules for various classes of employees/dependents;
2. Online enrollment functions enabling employee self-service or Client enrollment on the Client's employees' behalf;
3. Benefits billing and eligibility functions including the ability to create and transmit carrier-billing reports;
4. The ability to communicate general health and welfare information and for the Client to upload documents and web links germane to the Client;
5. Other useful content as Keenan deems appropriate.

B. With respect to the Platform, Keenan will:

1. Maintain the Platform and keep its contents updated and current;
2. Provide technical support to the Client;
3. Provide training on the Platform to the Client's Human Resources users and for employee trainers;
4. Provide implementation support including the loading of the plan designs, the eligibility rules, Client census files, initial user data and other data required to enable the Platform;
5. Provide annual updates to plan designs and related eligibility rules stored in the Platform;
6. Identify employees, dependents, and retirees who are enrolled in plans for which they are defined as ineligible;
7. Set up data transfers with the Client's carriers;
8. Ensure that standard reports are available for the Client's census, carrier bills and related benefits.

C. With respect to the Platform, the Client will:

1. Maintain user passwords and accounts for any employees given access;
2. Provide initial census data files;
3. Work with Keenan to acquire carrier membership files;
4. Work with Keenan to fully define eligibility rules.

Board Agenda Item

Supplement No: _____

Meeting Date: June 19, 2012

Subject: Administrator Contracts**Department:** Superintendent**Action Requested:** Approve new employment agreements for the Superintendent and the Associate Superintendents**Discussion:**

New laws (AB 1344) require that certain provisions be included in administrator contracts to insure increased contract transparency and to protect school district governing boards against certain abuses that surfaced during the "City of Bell" controversy. The revised agreements now contain these legally required provisions.

In addition to these legally required changes, the contracts eliminate references to furlough days and require all of the administrators to do the same cost sharing of health benefits as applicable to EGEA members.

With respect to salary, the Superintendent has previously agreed not to advance on the salary schedule. The revised Superintendent agreement also codifies the previous agreement to defer 403b payments (3 years) and his willingness to forgo interest on the deferral.

Associate Superintendents not at the top of the salary schedule will advance on the schedule as a result of receiving positive evaluations.

The revised contracts also contain other non-financial changes.

Financial Summary:

Any costs associated with Associate Superintendent advancement on the salary schedule are included in the District's budget.

Prepared By: _____

Division Approval: _____

Prepared By: _____

Superintendent Approval: Steven M. Ladd, Ed.D.

**ELK GROVE UNIFIED SCHOOL DISTRICT
EMPLOYMENT AGREEMENT
SUPERINTENDENT**

This Employment Agreement ("Agreement") is made and entered into by and between the Elk Grove Unified School District ("District" or "Board") and Steven M. Ladd, Ed.D. ("Superintendent").

RECITALS

The parties agree as follows:

1. **Employment.** The District hereby hires and employs the Superintendent to act and serve as its Superintendent of Schools and Superintendent hereby accepts such employment and agrees to satisfactorily perform the duties of the position during the term of this Agreement.

2. **Term.** The term of this Agreement is from July 1, 2012 until June 30, 2015 unless terminated earlier or extended as provided by the terms of this Agreement or as required by law.

3. **Work Year.** Superintendent's work year shall be 246 days.

4. **Compensation.** For and in consideration of the services rendered by Superintendent, Superintendent shall receive the following compensation:

a. **Salary.**

i. **Salary.** For the 2012-2013 school year, the Superintendent shall remain on step 3 of the Superintendent's salary schedule. Although the Superintendent is eligible for advancement to Step 4 in 2012-2013, the Superintendent previously agreed to forego advancements to steps 4 and 5 and shall therefore not be eligible for additional step increases. Step 3 of the Superintendent's salary schedule is two hundred seventy three thousand one hundred and ninety five dollars and no cents (\$273,195). No lottery stipend shall be paid to the Superintendent.

ii. **Cost of Living Adjustment ("COLA").** Subject to receipt of a satisfactory evaluation, the Superintendent shall be entitled to receive the same COLA, if any, provided to the District's certificated managers. If granted, the COLA shall be paid to the Superintendent, prospectively or retroactively, in the same manner as provided to other District managers. COLA increases, if any, shall be approved by the Board each year in open session of a regularly called Board meeting.

iii. **Salary Payments.** The Superintendent's salary shall be payable once every month not later than the last day of each month less all applicable taxes and other deductions required by law or authorized by the Superintendent.

iv. **Salary Changes.** During the term of this Agreement, the Board reserves the right to increase from time-to-time the salary payable to the Superintendent to be effective prospectively or retroactively on any date ordered by the Board in accordance with Education Code section 35032. A change in salary shall not constitute the creation of a new contract nor extend the termination date of this Agreement.

b. **Life Insurance.** The District, at its sole expense, shall obtain and maintain during the term of this Agreement, a term policy (without cash value) insuring the life of the Superintendent in the amount of \$150,000.00. The Superintendent shall have the right to designate the policy beneficiary.

c. **Vacation.** The Superintendent shall, during the term of this Agreement, earn and accrue 1.92 days of vacation leave with pay for each full month of service rendered (the equivalent of 23 days per year). Utilization of accrued vacation leave shall be subject to approval of the Board. The Superintendent shall not accrue more than 46 days of vacation. If earned and accumulated vacation days reach a total of 46, further accrual of vacation will cease until accumulated vacation is used and at that time vacation accrual commences. In the event of the termination or expiration of this Agreement for any reason, the Superintendent shall be entitled to compensation for no more than 46 days of accrued and unused vacation leave at Superintendent's then current daily rate of salary.

d. **Sick Leave.** The Superintendent shall, during the term of this Agreement, earn and accrue one (1) day of sick leave with pay for each full month of service rendered. Time off required by the Superintendent for illness or injury which is not covered by earned and accrued sick leave with pay, earned and accrued vacation with pay or other paid leaves as provided for by law, shall be uncompensated. The Board shall be authorized to require verification of sick leave and vacation usage from time-to-time, as it deems appropriate.

e. **Fringe Benefits.** The Superintendent shall be entitled to employee and dependent health care coverage under the same group medical, dental, optical, and other group health insurance plans which are provided to certificated employees covered by the EGEA collective bargaining agreement on the same terms and conditions, and subject to the same co-pays, deductibles and premium payment requirements as such benefits are provided to EGEA covered employees, as those benefits may change from time-to-time through negotiations with EGEA.

f. **Holidays.** The Superintendent shall be entitled to the same number and types of holidays with pay as are provided to other certificated management personnel.

g. **Post Retirement Health Benefits.**

i. The Superintendent may ultimately be entitled to lifetime health benefits consistent with the Trust Agreement and rules and regulations of the Elk Grove Benefits Employee Retirement Trust ("EGBERT"). If the Superintendent meets

all EGBERT requirements (e.g. ten years of qualified service to the District prior to retirement from the District and retirement from the California State Teachers Retirement System ("STRS")), the District shall provide the Superintendent with post retirement health benefits through EGBERT on the same terms and conditions as available to other qualifying District employees (e.g. medical, dental and vision coverage for the Superintendent and his spouse at EGBERT cost for the least expensive available plan option).

ii. The Board desires to immediately vest the Superintendent with an entitlement to lifetime post retirement health benefits notwithstanding any eligibility requirements of the District or EGBERT to the contrary (e.g. ten years qualified service to the District prior to retirement).

iii. If the Superintendent does not meet all EGBERT eligibility requirements for lifetime health benefits at the time of termination of the Superintendent's employment with the District by way of retirement or otherwise, or if the District can not lawfully provide health benefits to the Superintendent through EGBERT for the life of the Superintendent and his spouse, the District shall nonetheless provide the Superintendent and his spouse with post retirement lifetime health benefits at the time the Superintendent begins actively drawing retirement benefits from STRS. The Superintendent need not retire from the District to be eligible for post retirement lifetime health benefits. The Superintendent's entitlement to post retirement lifetime health benefits shall be on terms and conditions comparable to other employees qualifying for benefits under EGBERT.

iv. Whether the Superintendent receives post retirement lifetime health benefits through EGBERT or otherwise, the Superintendent's entitlement to post retirement lifetime health benefits shall continue for the life of the Superintendent and for the life of his wife, even if the Superintendent predeceases his wife.

h. **403(b) Contributions.** The District shall contribute the amounts specified below to the Superintendent's individual account under the District's IRS Section 403(b) Employer Paid Plan ("Plan").

Contributions will be fully vested and, upon death, shall become the property of the Superintendent's designated beneficiary as specified in the Plan. The Superintendent (or beneficiary) shall direct the investment of monies in the Plan, select the Plan vendor, designate beneficiaries and make all other discretionary decisions. The District shall not be liable or responsible for any investment or other discretionary decisions made by the Superintendent (or beneficiary).

The parties agree that for the 2012 calendar year, and each calendar year thereafter during the term of the Agreement, the District shall contribute \$26,700 to the Superintendent's account under the Plan. The contribution will be made at the time and in the manner determined by the Board in its discretion, but will be fully completed by December 31 each year.

Commencing with the 2008-09 school year, the annual \$26,700 contribution to the Plan for the Superintendent was deferred because of the District's difficult financial circumstances; thus, the Superintendent did not receive these contributions in the 2008-09, 2009-10 or the 2010-11 school years (in sum, the "Total Amount Deferred").

Accordingly, commencing with the calendar year after the Superintendent's retirement or the termination of this Agreement for any reason, and continuing each subsequent calendar year up to the fifth calendar after the year in which the Superintendent's District employment terminates, the District shall contribute an amount ranging from at least \$26,700, up to the maximum contribution permitted under the annual IRS contribution limit, until the Total Amount Deferred has been fully contributed. The Board has discretion to determine the time, manner, and amount (within the specified range) of these contributions, but each calendar year's contribution will be completed by December 31 of that year. Contributions under this paragraph will cease immediately when the Total Amount Deferred has been fully contributed. The Superintendent has agreed to forego any entitlement to interest on the amount deferred.

The Board's obligation to make the contributions specified above shall survive the death of the Superintendent. After the Superintendent's death, any unmade contributions will be paid into the 403(b) account for the Superintendent's designated 403(b) beneficiary as soon as practicable until the Total Amount Deferred has been fully contributed; however, if the District is unable to fully contribute those amounts due to limitations of tax or any other laws, the District will pay the amount not contributed in cash to the Superintendent's designated 403(b) beneficiary as soon as practicable.

No contributions may be made to the Plan in excess of the limits provided under the Internal Revenue Code. All payments and all provisions of the 403(b) Plan shall be consistent with all requirements of law.

Neither the Superintendent nor his beneficiaries shall have any right to receive any employer contributions made to the Plan in cash. The District's Associate Superintendent for Finance and School Support is hereby authorized by the Board to execute all documents necessary to implement the Plan as described in this Agreement.

i. **Transportation**. The Superintendent, at his sole cost and expense, shall provide, operate, and maintain a motor vehicle for the purpose of travel in the performance of the duties and responsibilities of his office within the District. Except in an emergency, the Superintendent shall not utilize a vehicle, fuel, or repair services provided by the District. The Superintendent shall not be entitled to a transportation allowance or to reimbursement for travel within the District; however, the Superintendent shall be entitled to mileage reimbursement for travel outside the District's boundaries at established IRS rates.

j. **Business Expenses**. The Superintendent shall not receive reimbursement for any expense that he incurs for attendance within the District, at meetings, luncheons, dinners, ceremonies, and other events as required in the official performance of the duties and responsibilities of his position; however, the

Superintendent shall be entitled to reimbursement for actual and necessary in-District conference or meeting registration fees.

k. **Conference Expenses.** At the direction of the Board or otherwise subject to its approval, the Superintendent shall attend educational or other conferences that the Board deems appropriate. The actual and necessary travel, food, lodging, incidental expenses, and registration costs to attend conferences outside of the District shall be reimbursable, subject to District verification and claim procedures and reimbursable expenditure limitations as such procedures and limitations may change from time-to-time.

l. **Professional Expenses.** The Superintendent shall endeavor to maintain and improve his professional competence by all available means, including subscription to and reading of appropriate periodicals and maintenance of membership in appropriate professional organizations. The expenses of said subscriptions and memberships are to be at District expense. However, the membership expenses shall not exceed \$2,050 per year and subscription expenses shall not exceed \$2,225 per year.

5. **Physical examination.** The Superintendent agrees to have a periodic physical examination as requested by the Board. Any expense beyond that paid by District insurance will be borne by the District. The physician's report of the Superintendent's physical examination shall be filed with the President of the Board and be treated as confidential information by the Board. At the discretion of the Board, the Board shall be advised in writing by the examining physician of the current fitness of the Superintendent to perform his duties. The Superintendent agrees to execute any necessary documents to release this information to the Board. Nothing herein shall be deemed to waive the Superintendent's physician/patient privilege with any physician with whom Superintendent consults for the purposes of this paragraph and Agreement.

6. **Duties.** In accordance with the policies adopted by the Board and rules and regulations of the State of California, the Superintendent shall satisfactorily perform the duties of the Superintendent of the District as prescribed by law, act as secretary to the Board in accordance with Education Code Section 35025; exercise those powers and perform those duties set forth in Education Code Section 35035; efficiently and effectively manage the programs and operations of the District; oversee the day-to-day operations of the District and, satisfactorily perform such other duties and assume such other responsibilities as are assigned by the Board.

The Superintendent shall attend all regular, special and closed session meetings of the Board, with the exception of any closed session meetings during which the Board wishes to discuss the performance of the Superintendent without him being present. The Superintendent shall serve as an ex officio member on any and all District committees and subcommittees, and shall be entitled to submit recommendations on any item of business considered by the Board or any committee or subcommittee of the District. No policy or bylaw of the District shall diminish the Superintendent's statutory or contractual authority. All duties assigned to the Superintendent by the Board shall be appropriate to and consistent with the professional role and responsibility of the Superintendent.

a. **Personnel Matters.** The Superintendent shall have the responsibility and authority for all personnel matters, including organizing, reorganizing, and arranging the administrative, supervisory and other staff, including instruction and business affairs, which in his judgment best serve the District. The Superintendent shall have responsibility and authority for the general supervision of all personnel matters as set forth in Board policy.

b. **Other Duties.** The Superintendent shall personally or by direction: (i) review all policies adopted by the Board and make appropriate recommendations to the Board; (ii) evaluate employees as provided for by California law and Board policy; (iii) advise the Board of all possible sources of funds which might be available to implement present or contemplated District programs; and (iv) establish and maintain an appropriate community relations program.

c. **Superintendent and Board Responsibilities.** The Superintendent shall be the chief executive officer of the District. As such, the Superintendent shall have the primary responsibility for the execution of Board policy, whereas the Board shall retain the primary responsibility for formulating and adopting policy. The Board, individually and collectively, will refer promptly all criticisms, complaints, and suggestions called to its attention to the Superintendent for study and recommendation. In addition to directing all complaints/criticisms/suggestions concerning the District or any of its personnel directly to Superintendent as set forth above, the Board agrees that it shall work with Superintendent in a spirit of cooperation and teamwork, and shall provide Superintendent with periodic opportunities to discuss the Board/Superintendent relationship.

7. **Management Hours.** It is understood that the demands of the position will require Superintendent to average more than an eight-hour workday or a forty-hour workweek. It is also understood that there will be times when the demands of the office do not require the presence or services of the Superintendent during the normal work day or work week. Therefore, Superintendent shall maintain a work schedule that is sufficient to adequately, efficiently, and effectively perform the duties of the position. Unless otherwise directed by the Board, the Superintendent may be absent from duty during normal working hours and shall not be required to adhere to those office hours prescribed for other personnel.

8. **Technology.** The Superintendent will be provided with appropriate technology that will assist the Superintendent in the performance of his job duties and responsibilities. These are to include, by way of example, but not by way of limitation, a laptop computer and Internet access.

9. **Outside Professional Activities.** The Superintendent shall be authorized to undertake outside professional activities for compensation including consulting, speaking, and writing, provided that the Superintendent shall devote so much of his time and energy to the performance of the duties of his office as are required to adequately perform the duties and responsibilities thereof. The Superintendent's performance of the duties and responsibilities of his office shall take precedence over any such outside activities, and the Board may disapprove time-off by the Superintendent during the

normal workweek to engage in such outside activity. The Superintendent agrees not to use District property or staff in performing outside professional activities without prior Board approval. In no case will the District be responsible for any expenses attendant to the performance of such outside activities unless prior Board approval is obtained.

10. **Contract Extension.** If the Superintendent receives a satisfactory evaluation as set forth below, the term of Superintendent's contract shall be extended by one additional year (e.g., if Superintendent receives a satisfactory evaluation for the 2012-2013 school year, the term of this Agreement shall be extended from June 30, 2015 to June 30, 2016.)

11. **Evaluation.** The Board and the Superintendent shall annually develop and agree upon performance goals and objectives that shall serve as the basis for an annual written evaluation. The Board and the Superintendent shall endeavor to develop annual goals and objectives no later than the first meeting of the Board in September of each year.

The Board shall devote a portion of at least one meeting each school year for discussion and evaluation of the performance and working relationship between the Superintendent and the Board. The Superintendent's evaluation shall be completed by June 30 each school year on dates to be determined by the Board and the Superintendent. Such meeting(s) shall be conducted in closed session unless mutually agreed otherwise. Evaluations shall be based upon the mutually developed and agreed upon performance goals and objectives for that year's evaluation, this Agreement, and the Superintendent's job description.

If the Board determines that the Superintendent's evaluation is "satisfactory," the term of the Superintendent's contract shall be extended one (1) year and the Superintendent shall be entitled to COLA adjustments as provided in section 2. If the Board determines that the Superintendent's evaluation is "unsatisfactory," the Superintendent's contract term and base salary shall remain unchanged.

At the conclusion of each year's annual evaluation, the Board shall determine in writing on the Superintendent's evaluation form whether or not the evaluation is "satisfactory" or "unsatisfactory" so that a clear and affirmative decision is made regarding the Superintendent's entitlement to a salary adjustment and a contract extension.

During December each year, the Superintendent agrees to provide each member of the Board with written notice of this evaluation requirement, the evaluation time lines, and the connection between the evaluation and the Superintendent's salary adjustment/contract extension. The Superintendent agrees to take affirmative steps to ensure that his evaluation occurs in a timely fashion.

If the Board's evaluation is not completed by June 30 of any year under this Agreement, the Board shall take prompt action to complete the evaluation. If the Board's evaluation is completed after June 30 and if it is satisfactory, the Superintendent shall be entitled to retroactive application of the salary increase and contract extension. The

Board shall publicly report the results of the Superintendent's evaluation, and any salary increase and contract extension, as set forth above. In addition, any contract extension, or COLA increase must be approved by the Board in open session so that the public remains informed about the Superintendent's current salary and the contract term.

12. **Termination.** This Agreement may be terminated on any of the following bases:

a. **Mutual Consent.** By mutual agreement, this Agreement may be terminated at any time.

b. **Resignation.** The Superintendent may resign and terminate this Agreement only by providing the Board with at least sixty (60) days advance written notice, unless the parties agree otherwise.

c. **Non-Renewal of Agreement by the District.** The Board may elect not to renew this Agreement upon its expiration by providing written notice to the Superintendent in accordance with Education Code section 35031 (currently 45-days prior notice), or other applicable provisions of law. The Superintendent shall inform the Board President of this notice requirement at least ninety (90) days in advance of expiration of this Agreement.

d. **Termination for Cause.** If the Board determines that the Superintendent has materially breached the terms of this Agreement or has neglected to perform his duties under it, the Board may initiate termination for cause proceedings against the Superintendent. For purposes of this Agreement, "cause" shall exist if Superintendent: (1) acts in bad faith to the detriment of the District; (2) refuses or fails to act in accordance with a specific provision of this Agreement or directive or order of a majority of the Board; (3) exhibits misconduct or dishonesty in regard to his employment; (4) is convicted of a crime involving dishonesty, breach of trust, or physical or emotional harm to any person; or, (5) is unable to perform the essential functions of his position. The existence of such cause shall constitute a material breach of this Agreement and shall extinguish all rights and duties hereunder.

If cause exists, the Governing Board shall immediately meet with the Superintendent and shall submit all charges in writing for his review. If the Superintendent disputes the charges, the Board, at its expense, will request that a hearing officer from the Office of Administrative Hearings be appointed to hear the charges. The hearing will be held in accordance with the Administrative Procedures Act. At the conclusion of the hearing, the hearing officer will render his or her decision in writing. The hearing officer's decision shall be final and binding on both parties.

e. **Termination without Cause.** If, for any reason, without cause or a hearing, at any time, the Board determines, in its sole discretion, that such action is in the best interest of the District, the Board may unilaterally terminate this Agreement. In consideration for the exercise of this right, the District shall pay to the Superintendent from the date of termination until the expiration of this Agreement, or for a period of eighteen (18) months, whichever is less, a sum equal to the difference between

Superintendent's base salary at the rate in effect during the Superintendent's last month of service and the amount which the Superintendent earns from any other employment-related source (whether as employee, independent contractor, consultant or self-employed).

Payments to the Superintendent shall be made on a monthly basis unless the parties agree in writing otherwise. As a condition of receiving such monthly payments, the Superintendent shall be obligated to immediately seek other full-time employment in good faith and to notify the District in writing immediately if Superintendent earns income from any employment-related source.

For purposes of this Agreement, the term "salary" shall include only the Superintendent's regular monthly base salary and shall not include the value of any other stipends, reimbursements or benefits received under this Agreement. All payments made pursuant to this termination without cause provision shall be subject to applicable payroll deductions and shall be treated as compensation for state and federal tax purposes. No payments made pursuant to this early termination provision shall constitute creditable service, creditable compensation or compensation earnable for CalSTRS or CalPERS retirement purposes. Payments made pursuant to this termination without cause provision shall be considered as final settlement pay; accordingly, no deductions shall be made for retirement purposes.

The Superintendent shall also be entitled to a continued District contribution toward health benefits, as those benefits may change from time-to-time, for the remainder of the unexpired term of this Agreement, for a period of eighteen (18) months, or until the Superintendent obtains other employment, whichever occurs first.

If the Superintendent is terminated without cause and elects to retire instead of fulfilling the Superintendent's obligation to seek other employment as set forth above, the parties agree that, effective upon the date of the Superintendent's retirement with the CalSTRS or CalPERS, the amount payable to the Superintendent as salary shall be reduced by the amount of retirement income earned by the Superintendent from CalSTRS or CalPERS.

The parties agree that any damages to the Superintendent that may result from the Board's early termination of this Agreement without cause cannot be readily ascertained. Accordingly, the parties agree that the payments made pursuant to this termination without cause provision, along with the District's agreement to provide health benefits, constitutes reasonable liquidated damages for the Superintendent, fully compensates the Superintendent for all tort, contract, and other damages of any nature whatsoever, whether in law or equity, and does not result in a penalty. The parties agree that the District's completion of its obligations under this provision constitutes the Superintendent's sole remedy to the fullest extent provided by law.

Finally, the parties agree that this provision meets the requirements governing maximum cash settlements as set forth in Government Code section 53260 et seq. and that any payment of cash or other consideration to the Superintendent pursuant to a settlement agreement resulting from the termination of this Agreement by the Board

is subject to the limitations and requirements contained in Government Code sections 53260 et seq. and other applicable provisions of law, as the law may be amended from time-to-time.

f. **Termination for Inappropriate Fiscal Practices.**

Notwithstanding any other provision of this Agreement to the contrary, if the Board believes, and subsequently confirms through an independent audit, that the Superintendent has engaged in fraud, misappropriation of funds, or other illegal fiscal practices, then the Board may terminate the Superintendent without cause and the Superintendent shall not be entitled to any cash, salary payments, health benefits or other non-cash settlement as set forth above. This provision is intended to implement the requirements of Government Code section 53260(b).

g. **Disability.** Upon expiration of the Superintendent's entitlement to current and accumulated sick leave and differential leave, and upon written evaluation by a licensed physician designated by the District indicating the inability of the Superintendent to perform the essential functions of the position, with or without reasonable accommodation, this Agreement may be immediately terminated by the Board upon written notice to the Superintendent.

h. **Death.** Death of the Superintendent immediately terminates this Agreement.

13. **Abuse of Office Provisions.** In accordance with Government Code section 53243 et seq., and as a separate contractual obligation, should the Superintendent receive a paid leave of absence or cash settlement if this contract is terminated with or without cause, such paid leave or cash settlement shall be fully reimbursed to the District by the Superintendent if the Superintendent is convicted of a crime involving an abuse of his office or position. In addition, if the District funds the criminal defense of the Superintendent against charges involving abuse of office or position and the Superintendent is then convicted of such charges, the Superintendent shall fully reimburse the District all funds expended for his criminal defense.

14. **Notice.** Notices by the Board of Education shall be deemed served either on the date on which it is personally served upon the Superintendent or the date on which it is deposited in the United States Mail, postage prepaid, and addressed as follows:

Steven M. Ladd, Superintendent
Elk Grove Unified School District
9510 Elk Grove-Florin Road
Elk Grove, California 95624

15. **Notice of Finalist in Search.** The Superintendent shall immediately notify the Board should he become a finalist in the selection process for any position with any other employer.

16. **Waiver.** No waiver of any breach of any term or provision of this Agreement shall be construed to be, nor shall it be, a waiver of any other breach of this

Agreement. No waiver shall be binding unless in writing and signed by the party waiving the breach.

17. **Complete Agreement.** This Agreement constitutes and contains the entire agreement and understanding between the parties concerning the Superintendent's employment with the District. This instrument supersedes and replaces all prior agreements, modifications and addendums and all prior proposals and negotiations, whether written or oral, concerning the Superintendent's employment with the District. This is an integrated document.

18. **Governing Law.** This Agreement shall be deemed to have been executed and delivered within the State of California, and rights and obligations of the parties hereunder shall be construed and enforced in accordance with, and governed by, the laws of the State of California without regard to principles of conflict of laws.

19. **Construction.** Each party has cooperated in the drafting and preparation of this Agreement. Hence, in any construction to be made of this Agreement, the same shall not be construed against any party on the basis that the party was the drafter. The captions of this Agreement are not part of the provisions hereof and shall have no force or effect.

20. **Execution.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Photographic copies of such signed counterparts may be used in lieu of the originals for any purpose.

21. **No Assignment.** The Superintendent may not assign or transfer any rights granted or obligations assumed under this Agreement.

22. **Modification.** This Agreement cannot be changed or supplemented orally. It may be modified or superseded only by a written instrument executed by both parties

23. **Exclusivity.** To the extent permitted by law, the parties agree that the employment relationship between the District and the Superintendent shall be governed exclusively by the provisions of this Agreement.

24. **Independent Representation.** The Superintendent and the Board each recognize that in entering into this Agreement, the parties have relied upon the advice of their own attorneys, financial advisors and other representatives, and that the terms of this Agreement have been completely read and explained to them by their attorneys, financial advisors and other representatives and that those terms are fully understood and voluntarily accepted by them.

25. **Savings Clause.** If any provision of this Agreement or its application is held invalid, the invalidity shall not affect the other provisions or applications of the Agreement that can be given effect without the invalid provisions or applications and the provisions of this Agreement are declared to be severable.

26. **Board Approval.** The effectiveness of this Agreement shall be contingent upon approval by the District's Board as required by law.

27. **Binding Effect.** This Agreement shall be for the benefit of and shall be binding upon all parties and their respective successors, heirs, and assigns.

28. **Public Record.** The parties recognize that, once final, this Agreement is a public record and must be made available to the public upon request.

29. **Credentials.** The Superintendent hereby certifies that the Superintendent holds legal and valid administrative and teaching credentials which he shall maintain in effect throughout the life of this Agreement, and shall keep on file in the Office of the County Superintendent of Schools of Sacramento County, and that he meets the qualifications of Education Code section 35028.

30. **Tax/Retirement Liability.** District makes no representations or warranties with respect to the tax or retirement consequences of this Agreement. Notwithstanding any other provision of this Agreement, the District shall not be liable for any state or federal tax consequences or any retirement consequences of any nature as a result of this Agreement including, but not limited to, retiree health benefits, life insurance, 403(b) contributions, or other benefits provided to the Superintendent or any designated beneficiary, heirs, administrators, executors, successors or assigns of the Superintendent. The Superintendent shall assume sole liability for all state and federal tax consequences and all retirement consequences of any nature occurring at any time. Superintendent further declares that, prior to signing this Agreement, the Superintendent was apprised of relevant data and received independent advice and counsel regarding the state and federal tax consequences and the retirement consequences of this Agreement.

31. **Execution of Other Documents.** The parties shall cooperate fully in the execution of any other documents and in the completion of any other acts that may be necessary or appropriate to give full force and effect to this Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement the day, month and year first above written.

BOARD OF EDUCATION
ELK GROVE UNIFIED SCHOOL DISTRICT

By: _____
Chet Madison
Board President

Dated: June __, 2012

ACCEPTANCE OF OFFER

I accept the above offer of employment and the terms and conditions thereof and will report for duty as directed above.

I have not entered into an Agreement of employment with the Governing Board of another school district or any other employer that will in any way conflict with the terms of this employment agreement.

I understand that the District is relying upon information provided by me during the application process in extending this offer of employment. By signing below, I represent that I have not provided the District with any false information or made any material misrepresentation during the job application process. I agree that false, incomplete, or misleading statements or omissions made during the job application process constitute dishonesty and breach of this Agreement and are grounds for termination of this Agreement for cause.

DATED: June ____, 2012

Steven M. Ladd, Ed.D.
Superintendent

ELK GROVE UNIFIED SCHOOL DISTRICT
SUPERINTENDENT SALARY SCHEDULE

STEP	SALARY
1	\$255,030
2	\$263,956
3	\$273,195
4	--
5	--

June 19, 2012

**ELK GROVE UNIFIED SCHOOL DISTRICT
EMPLOYMENT AGREEMENT
ASSOCIATE SUPERINTENDENT**

This Employment Agreement ("Agreement") is made and entered into by and between the Elk Grove Unified School District ("District" or "Board") and Christina Penna ("Associate Superintendent").

RECITALS

The parties agree as follows:

1. **Employment.** The District hereby hires and employs the Associate Superintendent to act and serve as its Associate Superintendent of Secondary Education and Associate Superintendent hereby accepts such employment and agrees to satisfactorily perform the duties of the position during the term of this Agreement.
2. **Term.** The term of this Agreement is from July 1, 2012 until June 30, 2015 unless terminated earlier or extended as provided by the terms of this Agreement or as required by law.
3. **Work Year.** Associate Superintendent's work year shall be 246 days.
4. **Compensation.** For and in consideration of the services rendered by Associate Superintendent, Associate Superintendent shall receive the following compensation:
 - a. **Salary.**
 - i. **Salary.** For the 2012-2013 school year, the Associate Superintendent shall be placed on step 5 of the Associate Superintendent's salary schedule. Step 5 of the Associate Superintendent's salary schedule is One Hundred Seventy-Six Thousand Three Hundred and Thirty Three Dollars (\$176,333). The parties acknowledge that the Associate Superintendent is at the top step of the salary schedule and therefore is not eligible for additional step increases. No lottery stipend shall be paid to the Associate Superintendent.
 - ii. **Cost of Living Adjustment ("COLA").** During the term of this Agreement, on an annual basis, Associate Superintendent shall receive the same COLA, if any, provided to the District's certificated managers. The COLA shall be paid to the Associate Superintendent, prospectively or retroactively, in the same manner as provided to other District certificated managers. Cost of living increases, however, shall only be granted if the Associate Superintendent receives a satisfactory evaluation from the Superintendent and the Board concurs. All COLA increases shall be approved by the Board each year in open session at a regularly called Board meeting.

iii. **Salary Payments.** The Associate Superintendent's salary shall be payable once every month not later than the last day of each month less all applicable taxes and other deductions required by law or authorized by the Associate Superintendent.

iv. **Salary Changes.** During the term of this Agreement, the Board reserves the right to increase from time-to-time the salary payable to the Associate Superintendent to be effective prospectively or retroactively on any date ordered by the Board in accordance with Education Code section 35032. A change in salary shall not constitute the creation of a new contract nor extend the termination date of this Agreement.

b. **Vacation.** The Associate Superintendent shall, during the term of this Agreement, earn and accrue 1.92 days of vacation leave with pay for each full month of service rendered (the equivalent of 23 days per year). Utilization of accrued vacation leave shall be subject to approval by the Superintendent. The Associate Superintendent shall not accrue more than 46 days of vacation. If earned and accumulated vacation days reach a total of 46, further accrual of vacation will cease until accumulated vacation is used and at that time vacation accrual commences. In the event of the termination or expiration of this Agreement for any reason, the Associate Superintendent shall be entitled to compensation for no more than 46 days of accrued and unused vacation leave at Associate Superintendent's then current daily rate of salary.

c. **Sick Leave.** The Associate Superintendent shall, during the term of this Agreement, earn and accrue one (1) day of sick leave with pay for each full month of service rendered. Time off required by the Associate Superintendent for illness or injury which is not covered by earned and accrued sick leave with pay, earned and accrued vacation with pay or other paid leaves as provided for by law, shall be uncompensated. The District shall be authorized to require verification of sick leave and vacation usage from time-to-time, as it deems appropriate.

d. **Fringe Benefits.** The Associate Superintendent shall be entitled to employee and dependent health care coverage under the same group medical, dental, optical, and other group health insurance plans which are provided to certificated employees covered by the EGEA collective bargaining agreement on the same terms and conditions, and subject to the same co-pays, deductibles and premium payment requirements as such benefits are provided to EGEA covered employees, as those benefits may change from time-to-time through negotiations with EGEA.

e. **Holidays.** The Associate Superintendent shall be entitled to the same number and types of holidays with pay as are provided to other certificated management personnel.

f. **Transportation Allowance.** The Associate Superintendent shall acquire, use, maintain and insure a personal automobile for school district business at the Associate Superintendent's sole cost and expense. The Associate Superintendent shall receive a monthly automobile mileage allowance of \$400 for travel within the District's boundaries, irrespective of the number of miles traveled on District business. The allowance shall be considered taxable

income. No documentation is required in order to receive this allowance. Except in an emergency, the Associate Superintendent shall not utilize vehicle, fuel, or repair services provided by the District. In addition, the Associate Superintendent shall be solely responsible for any tax and retirement consequences resulting from receipt of this allowance and shall defend, indemnify and hold the District harmless from all such consequences.

g. **Business Expense Allowance.** Associate Superintendent shall receive \$400 per month for business expenses that the Associate Superintendent incurs in the official performance of Associate Superintendent's duties and responsibilities. The allowance shall be considered taxable income. No documentation is required in order to receive this allowance. The Associate Superintendent shall be solely responsible for any tax or retirement consequences resulting from receipt of this allowance and shall defend, indemnify and hold the District harmless from all such consequences.

h. **Conference Expenses.** During the term of this Agreement, the Associate Superintendent shall attend educational or other conferences that the Superintendent deems appropriate. The actual and necessary travel, food, lodging, incidental expenses, and registration costs for events held outside of the District shall be reimbursable, subject to all verification and claims procedures and reimbursable expenditure limitations as are from time-to-time established by Board policy or administrative regulation.

i. **Expense Reimbursement.** The District shall reimburse the Associate Superintendent for actual and necessary expenses incurred within the scope of the Associate Superintendent's employment, including mileage reimbursement for travel outside of the District, so long as such expenses are permitted by District policy or incurred with prior approval of the Board and so long as the cost of the expense is not already provided for under the terms of this Agreement. For reimbursement, the Superintendent shall submit an expense claim in writing supported by appropriate written documentation.

5. **Physical Examination.** The Associate Superintendent agrees to have an examination by a District-appointed physician when requested by the Superintendent. Any expense beyond that paid by District insurance will be borne by the District. The physician's report of the Associate Superintendent's examination shall be filed with the Superintendent and shall be treated as confidential information. The examining physician's report shall address the fitness of the Associate Superintendent to perform his/her duties. The Associate Superintendent agrees to execute any necessary medical releases or other documents to facilitate this fitness for duty examination.

6. **Duties.** In accordance with the policies adopted by the Board and rules and regulations of the Board of Education, the Associate Superintendent shall perform such duties and assume such responsibilities as are contained in the Associate Superintendent's job description or as assigned by the Superintendent. Specifically, Associate Superintendent shall have primary responsibility for the Secondary Education program.

7. **Management Hours.** It is understood that the demands of Associate

Superintendent's position will require Associate Superintendent to average more than an eight-hour workday or a forty-hour workweek; therefore, the parties agree that Associate Superintendent shall not be entitled to overtime compensation.

8. **Outside Professional Activities.** The Associate Superintendent shall be authorized to undertake outside professional activities for compensation including consulting, speaking, and writing, provided that Associate Superintendent shall devote so much of Associate Superintendent's time and energy to the performance of the duties of the position as are required to adequately perform the duties and responsibilities of the position. The Associate Superintendent's performance of the duties and responsibilities shall take precedence over any outside activities, and the Superintendent may disapprove time-off by the Associate Superintendent during the normal workweek to engage in such outside activity. The Associate Superintendent agrees not to use District property or staff in performing outside professional activities without prior approval of the Superintendent. In no case will the District be responsible for any expenses attendant to the performance of such outside activities unless prior approval is obtained.

9. **Contract Extension.** If the Associate Superintendent receives a satisfactory evaluation as set forth below, the term of Associate Superintendent's Agreement shall be extended by one additional year (e.g., if Associate Superintendent receives a satisfactory evaluation for the 2012-2013 school year, the term of this Agreement shall be extended from June 30, 2015 to June 30, 2016.)

10. **Evaluation.** The Superintendent shall annually evaluate the Associate Superintendent's performance by June 30 of each year. At the conclusion of the evaluation for the school year, the Superintendent shall designate in writing on the Associate Superintendent's evaluation form whether or not the evaluation is "satisfactory" or "unsatisfactory."

If the Superintendent determines that the Associate Superintendent's evaluation is "satisfactory," and the Board concurs, the Associate Superintendent shall be entitled to: (1) a salary step increase as provided in section 2 until Associate Superintendent reaches the end of the salary schedule steps; (2) a COLA increase as provided in section 2; and (3) a one year contract extension.

If the Superintendent determines that the Associate Superintendent's evaluation is "unsatisfactory," the Associate Superintendent's salary and contract term shall remain unchanged.

If the Superintendent does not complete the evaluation by June 30 of any year under this Agreement, the Superintendent shall take prompt immediate action to complete the evaluation. If the evaluation is completed after June 30, it is satisfactory, and the Board concurs, the Associate Superintendent shall be entitled to retroactive application of the salary step increase, the COLA, if any, and the one year contract extension.

Any evaluation conducted under this paragraph must be ratified by the Board and reported in open session. In addition, any contract extension, salary step increase or COLA

increase must be approved by the Board in open session at a regular meeting so that the public remains informed about the Associate Superintendent's current step placement and the contract term.

11. **Termination.** This Agreement may be terminated on any of the following bases:

a. **Mutual Consent.** By mutual agreement, this Agreement may be terminated at any time.

b. **Resignation.** The Associate Superintendent may resign and terminate this Agreement only by providing the Board with at least sixty (60) days advance written notice, unless the parties agree otherwise.

c. **Non-Renewal of Agreement by the District.** The Board may elect not to renew this Agreement upon its expiration by providing written notice to the Associate Superintendent in accordance with Education Code section 35031 (currently 45-days prior notice), or other applicable provisions of law. The Associate Superintendent shall inform the Board President of this notice requirement at least ninety (90) days in advance of expiration of this Agreement.

d. **Termination for Cause.** The Board may terminate the Associate Superintendent as follows: (1) if the Associate Superintendent refuses or fails to follow a lawful directive or order of the Board or the Superintendent; (2) breach of this Agreement; (3) unsatisfactory performance as established through the evaluation process; (4) misconduct or dishonest behavior with regard to the Associate Superintendent's employment; or (5) conviction of a crime involving: dishonesty, breach of trust, or physical or emotional harm to any person. The existence of such cause shall constitute a material breach of this Agreement and shall extinguish all rights and duties of the parties under this Agreement.

If such cause exists, the Superintendent shall meet with the Associate Superintendent and shall submit a written statement to the Board and the Associate Superintendent of the grounds for termination and copies of written documents the District believes supports the termination. If the Associate Superintendent disputes the charges, the Associate Superintendent shall then be entitled to a conference before the Board in closed session. The Associate Superintendent and the Board shall each have the right to be represented by counsel at their own expense. The Associate Superintendent shall have a reasonable opportunity to respond to all matters raised in the charges. The conference with the Board shall not be an evidentiary hearing and neither party shall have the opportunity to call witnesses. If the Board, after considering all evidence presented, decides to terminate this Agreement, it shall provide the Associate Superintendent with a written decision.

The decision of the Board shall be final. The Associate Superintendent's conference before the Board shall be deemed to satisfy the Associate Superintendent's entitlement to due process of law and shall be the Associate Superintendent's exclusive right to any conference or hearing otherwise required by law. The Associate Superintendent waives any other rights that may be applicable to this termination for cause proceeding with the

understanding that completion of this hearing exhausts the Associate Superintendent's administrative remedies and then authorizes the Associate Superintendent to contest the Board's determination in a court of competent jurisdiction.

e. **Termination without Cause.** If, for any reason, without cause or a hearing, at any time, the Board determines, in its sole discretion, that such action is in the best interest of the District, the Board may unilaterally terminate this Agreement. In consideration for the exercise of this right, the District shall pay to the Associate Superintendent from the date of termination until the expiration of this Agreement, or for a period of eighteen (18) months, whichever is less, a sum equal to the difference between Associate Superintendent's base salary at the rate in effect during the Associate Superintendent's last month of service and the amount which the Associate Superintendent earns from any other employment-related source (whether as employee, independent contractor, consultant or self-employed).

Payments to the Associate Superintendent shall be made on a monthly basis unless the parties agree in writing otherwise. As a condition of receiving such monthly payments, the Associate Superintendent shall be obligated to immediately seek other full-time employment in good faith and to notify the District in writing immediately if Associate Superintendent earns income from any employment-related source.

For purposes of this Agreement, the term "salary" shall include only the Associate Superintendent's regular monthly base salary and shall not include the value of any other stipends, reimbursements or benefits received under this Agreement. All payments made pursuant to this termination without cause provision shall be subject to applicable payroll deductions and shall be treated as compensation for state and federal tax purposes. No payments made pursuant to this early termination provision shall constitute creditable service, creditable compensation or compensation earnable for CalSTRS or CalPERS retirement purposes. Payments made pursuant to this termination without cause provision shall be considered as final settlement pay; accordingly, no deductions shall be made for retirement purposes.

The Associate Superintendent shall also be entitled to a continued District contribution toward health benefits, as those benefits may change from time-to-time, for the remainder of the unexpired term of this Agreement, for a period of eighteen (18) months, or until the Associate Superintendent obtains other employment, whichever occurs first.

If the Associate Superintendent is terminated without cause and elects to retire instead of fulfilling the Associate Superintendent's obligation to seek other employment as set forth above, the parties agree that, effective upon the date of the Associate Superintendent's retirement with the CalSTRS or CalPERS, the amount payable to the Associate Superintendent as salary shall be reduced by the amount of retirement income earned by the Associate Superintendent from CalSTRS or CalPERS.

The parties agree that any damages to the Associate Superintendent that may result from the Board's early termination of this Agreement without cause cannot be readily ascertained. Accordingly, the parties agree that the payments made pursuant to this termination without cause provision, along with the District's agreement to provide health benefits,

constitutes reasonable liquidated damages for the Associate Superintendent, fully compensates the Associate Superintendent for all tort, contract, and other damages of any nature whatsoever, whether in law or equity, and does not result in a penalty. The parties agree that the District's completion of its obligations under this provision constitutes the Associate Superintendent's sole remedy to the fullest extent provided by law.

Finally, the parties agree that this provision meets the requirements governing maximum cash settlements as set forth in Government Code section 53260 et seq. and that any payment of cash or other consideration to the Associate Superintendent pursuant to a settlement agreement resulting from the termination of this Agreement by the Board is subject to the limitations and requirements contained in Government Code sections 53260 et seq. and other applicable provisions of law, as the law may be amended from time-to-time.

f. **Termination for Inappropriate Fiscal Practices.** Notwithstanding any other provision of this Agreement to the contrary, if the Board believes, and subsequently confirms through an independent audit, that the Associate Superintendent has engaged in fraud, misappropriation of funds, or other illegal fiscal practices, then the Board may terminate the Associate Superintendent without cause and the Associate Superintendent shall not be entitled to any cash, salary payments, health benefits or other non-cash settlement as set forth above. This provision is intended to implement the requirements of Government Code section 53260(b).

g. **Disability.** Upon expiration of the Associate Superintendent's entitlement to current and accumulated sick leave and differential leave, and upon written evaluation by a licensed physician designated by the District indicating the inability of the Associate Superintendent to perform the essential functions of the position, with or without reasonable accommodation, this Agreement may be immediately terminated by the Board upon written notice to the Associate Superintendent.

h. **Death.** Death of the Associate Superintendent immediately terminates this Agreement.

12. **Abuse of Office Provisions.** In accordance with Government Code section 53243 et seq., and as a separate contractual obligation, should the Associate Superintendent receive a paid leave of absence or cash settlement if this contract is terminated with or without cause, such paid leave or cash settlement shall be fully reimbursed to the District by the Associate Superintendent if the Associate Superintendent is convicted of a crime involving an abuse of his/her office or position. In addition, if the District funds the criminal defense of the Associate Superintendent against charges involving abuse of office or position and the Associate Superintendent is then convicted of such charges, the Associate Superintendent shall fully reimburse the District all funds expended for his/her criminal defense.

13. **Notice.** Notices by the Board of Education shall be deemed served either on the date on which it is personally served upon the Associate Superintendent or the date on which it is deposited in the United States Mail, postage prepaid, and addressed as follows:

Christina Penna, Associate Superintendent
Elk Grove Unified School District
9510 Elk Grove-Florin Road
Elk Grove, California 95624

14. **Notice of Finalist in Search.** The Associate Superintendent shall immediately notify the Superintendent should he/she become a finalist in the selection process for any position with any other employer.

15. **Waiver.** No waiver of any breach of any term or provision of this Agreement shall be construed to be, nor shall it be, a waiver of any other breach of this Agreement. No waiver shall be binding unless in writing and signed by the party waiving the breach.

16. **Complete Agreement.** This Agreement constitutes and contains the entire agreement and understanding between the parties concerning the Associate Superintendent's employment with the District. This instrument supersedes and replaces all prior agreements, modifications and addendums and all prior proposals and negotiations, whether written or oral, concerning the Associate Superintendent's employment with the District. This is an integrated document.

17. **Governing Law.** This Agreement shall be deemed to have been executed and delivered within the State of California, and rights and obligations of the parties hereunder shall be construed and enforced in accordance with, and governed by, the laws of the State of California without regard to principles of conflict of laws.

18. **Construction.** Each party has cooperated in the drafting and preparation of this Agreement. Hence, in any construction to be made of this Agreement, the same shall not be construed against any party on the basis that the party was the drafter. The captions of this Agreement are not part of the provisions hereof and shall have no force or effect.

19. **Execution.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Photographic copies of such signed counterparts may be used in lieu of the originals for any purpose.

20. **No Assignment.** The Associate Superintendent may not assign or transfer any rights granted or obligations assumed under this Agreement.

21. **Modification.** This Agreement cannot be changed or supplemented orally. It may be modified or superseded only by a written instrument executed by both parties.

22. **Exclusivity.** To the extent permitted by law, the parties agree that the employment relationship between the District and the Associate Superintendent shall be governed exclusively by the provisions of this Agreement.

23. **Independent Representation.** The Associate Superintendent and the Board each recognize that in entering into this Agreement, the parties have relied upon the advice of their own attorneys, financial advisors and other representatives, and that the terms of this Agreement have been completely read and explained to them by their attorneys, financial advisors and other representatives and that those terms are fully understood and voluntarily accepted by them.

24. **Savings Clause.** If any provision of this Agreement or its application is held invalid, the invalidity shall not affect the other provisions or applications of the Agreement that can be given effect without the invalid provisions or applications and the provisions of this Agreement are declared to be severable.

25. **Board Approval.** The effectiveness of this Agreement shall be contingent upon approval by the District's Board as required by law.

26. **Binding Effect.** This Agreement shall be for the benefit of and shall be binding upon all parties and their respective successors, heirs, and assigns.

27. **Public Record.** The parties recognize that, once final, this Agreement is a public record and must be made available to the public upon request.

28. **Credentials.** The Associate Superintendent hereby certifies that the Associate Superintendent holds legal and valid administrative and teaching credentials which he/she shall maintain in effect throughout the life of this Agreement, and shall keep on file in the Office of the County Superintendent of Schools of Sacramento County.

29. **Tax/Retirement Liability.** District makes no representations or warranties with respect to the tax or retirement consequences of this Agreement. Notwithstanding any other provision of this Agreement, the District shall not be liable for any state or federal tax consequences or any retirement consequences of any nature as a result of this Agreement including, but not limited to, retiree health benefits, life insurance or other benefits provided to the Associate Superintendent or any designated beneficiary, heirs, administrators, executors, successors or assigns of the Associate Superintendent. The Associate Superintendent shall assume sole liability for all state and federal tax consequences and all retirement consequences of any nature occurring at any time. Associate Superintendent further declares that, prior to signing this Agreement, the Associate Superintendent was apprised of relevant data and received independent advice and counsel regarding the state and federal tax consequences and the retirement consequences of this Agreement.

30. **Execution of Other Documents.** The parties shall cooperate fully in the

execution of any other documents and in the completion of any other acts that may be necessary or appropriate to give full force and effect to this Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement the day, month and year first above written.

BOARD OF EDUCATION
ELK GROVE UNIFIED SCHOOL DISTRICT

By: _____
Chet Madison
Board President

Dated: June __, 2012

ACCEPTANCE OF OFFER

I accept the above offer of employment and the terms and conditions thereof and will report for duty as directed above.

I have not entered into an Agreement of employment with the Governing Board of another school district or any other employer that will in any way conflict with the terms of this employment agreement.

I understand that the District is relying upon information provided by me during the application process in extending this offer of employment. By signing below, I represent that I have not provided the District with any false information or made any material misrepresentation during the job application process. I agree that false, incomplete, or misleading statements or omissions made during the job application process constitute dishonesty and breach of this Agreement and are grounds for termination of this Agreement for cause.

DATED: June ____, 2012

Christina Penna, Associate Superintendent

**ELK GROVE UNIFIED SCHOOL DISTRICT
EMPLOYMENT AGREEMENT
ASSOCIATE SUPERINTENDENT**

This Employment Agreement ("Agreement") is made and entered into by and between the Elk Grove Unified School District ("District" or "Board") and Robert D. Pierce ("Associate Superintendent").

RECITALS

The parties agree as follows:

1. **Employment.** The District hereby hires and employs the Associate Superintendent to act and serve as its Associate Superintendent of Facilities and Planning and Associate Superintendent hereby accepts such employment and agrees to satisfactorily perform the duties of the position during the term of this Agreement.

2. **Term.** The term of this Agreement is from July 1, 2012 until June 30, 2015 unless terminated earlier or extended as provided by the terms of this Agreement or as required by law.

3. **Work Year.** Associate Superintendent's work year shall be 246 days.

4. **Compensation.** For and in consideration of the services rendered by Associate Superintendent, Associate Superintendent shall receive the following compensation:

a. **Salary.**

i. **Salary.** For the 2012-2013 school year, the Associate Superintendent shall be placed on step 5 of the Associate Superintendent's salary schedule. Step 5 of the Associate Superintendent's salary schedule is One Hundred Seventy-Six Thousand Three Hundred and Thirty Three Dollars (\$176,333). The parties acknowledge that the Associate Superintendent is at the top step of the salary schedule and therefore is not eligible for additional step increases. No lottery stipend shall be paid to the Associate Superintendent.

ii. **Cost of Living Adjustment ("COLA").** During the term of this Agreement, on an annual basis, Associate Superintendent shall receive the same COLA, if any, provided to the District's certificated managers. The COLA shall be paid to the Associate Superintendent, prospectively or retroactively, in the same manner as provided to other District certificated managers. Cost of living increases, however, shall only be granted if the Associate Superintendent receives a satisfactory evaluation from the Superintendent and the Board concurs. All COLA increases shall be approved by the Board each year in open session at a regularly called Board meeting.

iii. **Salary Payments.** The Associate Superintendent's salary shall be payable once every month not later than the last day of each month less all applicable taxes and other deductions required by law or authorized by the Associate Superintendent.

iv. **Salary Changes.** During the term of this Agreement, the Board reserves the right to increase from time-to-time the salary payable to the Associate Superintendent to be effective prospectively or retroactively on any date ordered by the Board in accordance with Education Code section 35032. A change in salary shall not constitute the creation of a new contract nor extend the termination date of this Agreement.

b. **Vacation.** The Associate Superintendent shall, during the term of this Agreement, earn and accrue 1.92 days of vacation leave with pay for each full month of service rendered (the equivalent of 23 days per year). Utilization of accrued vacation leave shall be subject to approval by the Superintendent. The Associate Superintendent shall not accrue more than 46 days of vacation. If earned and accumulated vacation days reach a total of 46, further accrual of vacation will cease until accumulated vacation is used and at that time vacation accrual commences. In the event of the termination or expiration of this Agreement for any reason, the Associate Superintendent shall be entitled to compensation for no more than 46 days of accrued and unused vacation leave at Associate Superintendent's then current daily rate of salary.

c. **Sick Leave.** The Associate Superintendent shall, during the term of this Agreement, earn and accrue one (1) day of sick leave with pay for each full month of service rendered. Time off required by the Associate Superintendent for illness or injury which is not covered by earned and accrued sick leave with pay, earned and accrued vacation with pay or other paid leaves as provided for by law, shall be uncompensated. The District shall be authorized to require verification of sick leave and vacation usage from time-to-time, as it deems appropriate.

d. **Fringe Benefits.** The Associate Superintendent shall be entitled to employee and dependent health care coverage under the same group medical, dental, optical, and other group health insurance plans which are provided to certificated employees covered by the EGEA collective bargaining agreement on the same terms and conditions, and subject to the same co-pays, deductibles and premium payment requirements as such benefits are provided to EGEA covered employees, as those benefits may change from time-to-time through negotiations with EGEA.

e. **Holidays.** The Associate Superintendent shall be entitled to the same number and types of holidays with pay as are provided to other certificated management personnel.

f. **Transportation Allowance.** The Associate Superintendent shall acquire, use, maintain and insure a personal automobile for school district business at the Associate Superintendent's sole cost and expense. The Associate Superintendent shall receive a monthly automobile mileage allowance of \$400 for travel within the District's boundaries, irrespective of the number of miles traveled on District business. The allowance shall be considered taxable

income. No documentation is required in order to receive this allowance. Except in an emergency, the Associate Superintendent shall not utilize vehicle, fuel, or repair services provided by the District. In addition, the Associate Superintendent shall be solely responsible for any tax and retirement consequences resulting from receipt of this allowance and shall defend, indemnify and hold the District harmless from all such consequences.

g. **Business Expense Allowance.** Associate Superintendent shall receive \$400 per month for business expenses that the Associate Superintendent incurs in the official performance of Associate Superintendent's duties and responsibilities. The allowance shall be considered taxable income. No documentation is required in order to receive this allowance. The Associate Superintendent shall be solely responsible for any tax or retirement consequences resulting from receipt of this allowance and shall defend, indemnify and hold the District harmless from all such consequences.

h. **Conference Expenses.** During the term of this Agreement, the Associate Superintendent shall attend educational or other conferences that the Superintendent deems appropriate. The actual and necessary travel, food, lodging, incidental expenses, and registration costs for events held outside of the District shall be reimbursable, subject to all verification and claims procedures and reimbursable expenditure limitations as are from time-to-time established by Board policy or administrative regulation.

i. **Expense Reimbursement.** The District shall reimburse the Associate Superintendent for actual and necessary expenses incurred within the scope of the Associate Superintendent's employment, including mileage reimbursement for travel outside of the District, so long as such expenses are permitted by District policy or incurred with prior approval of the Board and so long as the cost of the expense is not already provided for under the terms of this Agreement. For reimbursement, the Superintendent shall submit an expense claim in writing supported by appropriate written documentation.

5. **Physical Examination.** The Associate Superintendent agrees to have an examination by a District-appointed physician when requested by the Superintendent. Any expense beyond that paid by District insurance will be borne by the District. The physician's report of the Associate Superintendent's examination shall be filed with the Superintendent and shall be treated as confidential information. The examining physician's report shall address the fitness of the Associate Superintendent to perform his/her duties. The Associate Superintendent agrees to execute any necessary medical releases or other documents to facilitate this fitness for duty examination.

6. **Duties.** In accordance with the policies adopted by the Board and rules and regulations of the Board of Education, the Associate Superintendent shall perform such duties and assume such responsibilities as are contained in the Associate Superintendent's job description or as assigned by the Superintendent. Specifically, Associate Superintendent shall have primary responsibility for the District's Facilities and Planning program.

7. **Management Hours.** It is understood that the demands of Associate Superintendent's position will require Associate Superintendent to average more than an eight-

hour workday or a forty-hour workweek; therefore, the parties agree that Associate Superintendent shall not be entitled to overtime compensation.

8. **Outside Professional Activities.** The Associate Superintendent shall be authorized to undertake outside professional activities for compensation including consulting, speaking, and writing, provided that Associate Superintendent shall devote so much of Associate Superintendent's time and energy to the performance of the duties of the position as are required to adequately perform the duties and responsibilities of the position. The Associate Superintendent's performance of the duties and responsibilities shall take precedence over any outside activities, and the Superintendent may disapprove time-off by the Associate Superintendent during the normal workweek to engage in such outside activity. The Associate Superintendent agrees not to use District property or staff in performing outside professional activities without prior approval of the Superintendent. In no case will the District be responsible for any expenses attendant to the performance of such outside activities unless prior approval is obtained.

9. **Contract Extension.** If the Associate Superintendent receives a satisfactory evaluation as set forth below, the term of Associate Superintendent's Agreement shall be extended by one additional year (e.g., if Associate Superintendent receives a satisfactory evaluation for the 2012-2013 school year, the term of this Agreement shall be extended from June 30, 2015 to June 30, 2016.)

10. **Evaluation.** The Superintendent shall annually evaluate the Associate Superintendent's performance by June 30 of each year. At the conclusion of the evaluation for the school year, the Superintendent shall designate in writing on the Associate Superintendent's evaluation form whether or not the evaluation is "satisfactory" or "unsatisfactory."

If the Superintendent determines that the Associate Superintendent's evaluation is "satisfactory," and the Board concurs, the Associate Superintendent shall be entitled to: (1) a salary step increase as provided in section 2 until Associate Superintendent reaches the end of the salary schedule steps; (2) a COLA increase as provided in section 2; and (3) a one year contract extension.

If the Superintendent determines that the Associate Superintendent's evaluation is "unsatisfactory," the Associate Superintendent's salary and contract term shall remain unchanged.

If the Superintendent does not complete the evaluation by June 30 of any year under this Agreement, the Superintendent shall take prompt immediate action to complete the evaluation. If the evaluation is completed after June 30, it is satisfactory, and the Board concurs, the Associate Superintendent shall be entitled to retroactive application of the salary step increase, the COLA, if any, and the one year contract extension.

Any evaluation conducted under this paragraph must be ratified by the Board and reported in open session. In addition, any contract extension, salary step increase or COLA increase must be approved by the Board in open session at a regular meeting so that the public

remains informed about the Associate Superintendent's current step placement and the contract term.

11. **Termination.** This Agreement may be terminated on any of the following bases:
 - a. **Mutual Consent.** By mutual agreement, this Agreement may be terminated at any time.
 - b. **Resignation.** The Associate Superintendent may resign and terminate this Agreement only by providing the Board with at least sixty (60) days advance written notice, unless the parties agree otherwise.
 - c. **Non-Renewal of Agreement by the District.** The Board may elect not to renew this Agreement upon its expiration by providing written notice to the Associate Superintendent in accordance with Education Code section 35031 (currently 45-days prior notice), or other applicable provisions of law. The Associate Superintendent shall inform the Board President of this notice requirement at least ninety (90) days in advance of expiration of this Agreement.
 - d. **Termination for Cause.** The Board may terminate the Associate Superintendent as follows: (1) if the Associate Superintendent refuses or fails to follow a lawful directive or order of the Board or the Superintendent; (2) breach of this Agreement; (3) unsatisfactory performance as established through the evaluation process; (4) misconduct or dishonest behavior with regard to the Associate Superintendent's employment; or (5) conviction of a crime involving: dishonesty, breach of trust, or physical or emotional harm to any person. The existence of such cause shall constitute a material breach of this Agreement and shall extinguish all rights and duties of the parties under this Agreement.

If such cause exists, the Superintendent shall meet with the Associate Superintendent and shall submit a written statement to the Board and the Associate Superintendent of the grounds for termination and copies of written documents the District believes supports the termination. If the Associate Superintendent disputes the charges, the Associate Superintendent shall then be entitled to a conference before the Board in closed session. The Associate Superintendent and the Board shall each have the right to be represented by counsel at their own expense. The Associate Superintendent shall have a reasonable opportunity to respond to all matters raised in the charges. The conference with the Board shall not be an evidentiary hearing and neither party shall have the opportunity to call witnesses. If the Board, after considering all evidence presented, decides to terminate this Agreement, it shall provide the Associate Superintendent with a written decision.

The decision of the Board shall be final. The Associate Superintendent's conference before the Board shall be deemed to satisfy the Associate Superintendent's entitlement to due process of law and shall be the Associate Superintendent's exclusive right to any conference or hearing otherwise required by law. The Associate Superintendent waives any other rights that may be applicable to this termination for cause proceeding with the understanding that completion of this hearing exhausts the Associate Superintendent's

administrative remedies and then authorizes the Associate Superintendent to contest the Board's determination in a court of competent jurisdiction.

e. **Termination without Cause.** If, for any reason, without cause or a hearing, at any time, the Board determines, in its sole discretion, that such action is in the best interest of the District, the Board may unilaterally terminate this Agreement. In consideration for the exercise of this right, the District shall pay to the Associate Superintendent from the date of termination until the expiration of this Agreement, or for a period of eighteen (18) months, whichever is less, a sum equal to the difference between Associate Superintendent's base salary at the rate in effect during the Associate Superintendent's last month of service and the amount which the Associate Superintendent earns from any other employment-related source (whether as employee, independent contractor, consultant or self-employed).

Payments to the Associate Superintendent shall be made on a monthly basis unless the parties agree in writing otherwise. As a condition of receiving such monthly payments, the Associate Superintendent shall be obligated to immediately seek other full-time employment in good faith and to notify the District in writing immediately if Associate Superintendent earns income from any employment-related source.

For purposes of this Agreement, the term "salary" shall include only the Associate Superintendent's regular monthly base salary and shall not include the value of any other stipends, reimbursements or benefits received under this Agreement. All payments made pursuant to this termination without cause provision shall be subject to applicable payroll deductions and shall be treated as compensation for state and federal tax purposes. No payments made pursuant to this early termination provision shall constitute creditable service, creditable compensation or compensation earnable for CalSTRS or CalPERS retirement purposes. Payments made pursuant to this termination without cause provision shall be considered as final settlement pay; accordingly, no deductions shall be made for retirement purposes.

The Associate Superintendent shall also be entitled to a continued District contribution toward health benefits, as those benefits may change from time-to-time, for the remainder of the unexpired term of this Agreement, for a period of eighteen (18) months, or until the Associate Superintendent obtains other employment, whichever occurs first.

If the Associate Superintendent is terminated without cause and elects to retire instead of fulfilling the Associate Superintendent's obligation to seek other employment as set forth above, the parties agree that, effective upon the date of the Associate Superintendent's retirement with the CalSTRS or CalPERS, the amount payable to the Associate Superintendent as salary shall be reduced by the amount of retirement income earned by the Associate Superintendent from CalSTRS or CalPERS.

The parties agree that any damages to the Associate Superintendent that may result from the Board's early termination of this Agreement without cause cannot be readily ascertained. Accordingly, the parties agree that the payments made pursuant to this termination without cause provision, along with the District's agreement to provide health benefits, constitutes reasonable liquidated damages for the Associate Superintendent, fully compensates

the Associate Superintendent for all tort, contract, and other damages of any nature whatsoever, whether in law or equity, and does not result in a penalty. The parties agree that the District's completion of its obligations under this provision constitutes the Associate Superintendent's sole remedy to the fullest extent provided by law.

Finally, the parties agree that this provision meets the requirements governing maximum cash settlements as set forth in Government Code section 53260 et seq. and that any payment of cash or other consideration to the Associate Superintendent pursuant to a settlement agreement resulting from the termination of this Agreement by the Board is subject to the limitations and requirements contained in Government Code sections 53260 et seq. and other applicable provisions of law, as the law may be amended from time-to-time.

f. **Termination for Inappropriate Fiscal Practices.** Notwithstanding any other provision of this Agreement to the contrary, if the Board believes, and subsequently confirms through an independent audit, that the Associate Superintendent has engaged in fraud, misappropriation of funds, or other illegal fiscal practices, then the Board may terminate the Associate Superintendent without cause and the Associate Superintendent shall not be entitled to any cash, salary payments, health benefits or other non-cash settlement as set forth above. This provision is intended to implement the requirements of Government Code section 53260(b).

g. **Disability.** Upon expiration of the Associate Superintendent's entitlement to current and accumulated sick leave and differential leave, and upon written evaluation by a licensed physician designated by the District indicating the inability of the Associate Superintendent to perform the essential functions of the position, with or without reasonable accommodation, this Agreement may be immediately terminated by the Board upon written notice to the Associate Superintendent.

h. **Death.** Death of the Associate Superintendent immediately terminates this Agreement.

12. **Abuse of Office Provisions.** In accordance with Government Code section 53243 et seq., and as a separate contractual obligation, should the Associate Superintendent receive a paid leave of absence or cash settlement if this contract is terminated with or without cause, such paid leave or cash settlement shall be fully reimbursed to the District by the Associate Superintendent if the Associate Superintendent is convicted of a crime involving an abuse of his/her office or position. In addition, if the District funds the criminal defense of the Associate Superintendent against charges involving abuse of office or position and the Associate Superintendent is then convicted of such charges, the Associate Superintendent shall fully reimburse the District all funds expended for his/her criminal defense.

13. **Notice.** Notices by the Board of Education shall be deemed served either on the

date on which it is personally served upon the Associate Superintendent or the date on which it is deposited in the United States Mail, postage prepaid, and addressed as follows:

Robert D. Pierce, Associate Superintendent
Elk Grove Unified School District
9510 Elk Grove-Florin Road
Elk Grove, California 95624

14. **Notice of Finalist in Search.** The Associate Superintendent shall immediately notify the Superintendent should he/she become a finalist in the selection process for any position with any other employer.

15. **Waiver.** No waiver of any breach of any term or provision of this Agreement shall be construed to be, nor shall it be, a waiver of any other breach of this Agreement. No waiver shall be binding unless in writing and signed by the party waiving the breach.

16. **Complete Agreement.** This Agreement constitutes and contains the entire agreement and understanding between the parties concerning the Associate Superintendent's employment with the District. This instrument supersedes and replaces all prior agreements, modifications and addendums and all prior proposals and negotiations, whether written or oral, concerning the Associate Superintendent's employment with the District. This is an integrated document.

17. **Governing Law.** This Agreement shall be deemed to have been executed and delivered within the State of California, and rights and obligations of the parties hereunder shall be construed and enforced in accordance with, and governed by, the laws of the State of California without regard to principles of conflict of laws.

18. **Construction.** Each party has cooperated in the drafting and preparation of this Agreement. Hence, in any construction to be made of this Agreement, the same shall not be construed against any party on the basis that the party was the drafter. The captions of this Agreement are not part of the provisions hereof and shall have no force or effect.

19. **Execution.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Photographic copies of such signed counterparts may be used in lieu of the originals for any purpose.

20. **No Assignment.** The Associate Superintendent may not assign or transfer any rights granted or obligations assumed under this Agreement.

21. **Modification.** This Agreement cannot be changed or supplemented orally. It may be modified or superseded only by a written instrument executed by both parties.

22. **Exclusivity.** To the extent permitted by law, the parties agree that the employment relationship between the District and the Associate Superintendent shall be governed exclusively by the provisions of this Agreement.

23. **Independent Representation.** The Associate Superintendent and the Board each recognize that in entering into this Agreement, the parties have relied upon the advice of their own attorneys, financial advisors and other representatives, and that the terms of this Agreement have been completely read and explained to them by their attorneys, financial advisors and other representatives and that those terms are fully understood and voluntarily accepted by them.

24. **Savings Clause.** If any provision of this Agreement or its application is held invalid, the invalidity shall not affect the other provisions or applications of the Agreement that can be given effect without the invalid provisions or applications and the provisions of this Agreement are declared to be severable.

25. **Board Approval.** The effectiveness of this Agreement shall be contingent upon approval by the District's Board as required by law.

26. **Binding Effect.** This Agreement shall be for the benefit of and shall be binding upon all parties and their respective successors, heirs, and assigns.

27. **Public Record.** The parties recognize that, once final, this Agreement is a public record and must be made available to the public upon request.

28. **Credentials.** The Associate Superintendent hereby certifies that the Associate Superintendent holds legal and valid administrative and teaching credentials which he/she shall maintain in effect throughout the life of this Agreement, and shall keep on file in the Office of the County Superintendent of Schools of Sacramento County.

29. **Tax/Retirement Liability.** District makes no representations or warranties with respect to the tax or retirement consequences of this Agreement. Notwithstanding any other provision of this Agreement, the District shall not be liable for any state or federal tax consequences or any retirement consequences of any nature as a result of this Agreement including, but not limited to, retiree health benefits, life insurance or other benefits provided to the Associate Superintendent or any designated beneficiary, heirs, administrators, executors, successors or assigns of the Associate Superintendent. The Associate Superintendent shall assume sole liability for all state and federal tax consequences and all retirement consequences of any nature occurring at any time. Associate Superintendent further declares that, prior to signing this Agreement, the Associate Superintendent was apprised of relevant data and received independent advice and counsel regarding the state and federal tax consequences and the retirement consequences of this Agreement.

30. **Execution of Other Documents.** The parties shall cooperate fully in the execution of any other documents and in the completion of any other acts that may be necessary

or appropriate to give full force and effect to this Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement the day, month and year first above written.

BOARD OF EDUCATION
ELK GROVE UNIFIED SCHOOL DISTRICT

By: _____
Chet Madison
Board President

Dated: June ____, 2012

ACCEPTANCE OF OFFER

I accept the above offer of employment and the terms and conditions thereof and will report for duty as directed above.

I have not entered into an Agreement of employment with the Governing Board of another school district or any other employer that will in any way conflict with the terms of this employment agreement.

I understand that the District is relying upon information provided by me during the application process in extending this offer of employment. By signing below, I represent that I have not provided the District with any false information or made any material misrepresentation during the job application process. I agree that false, incomplete, or misleading statements or omissions made during the job application process constitute dishonesty and breach of this Agreement and are grounds for termination of this Agreement for cause.

DATED: June ____, 2012

Robert D. Pierce, Associate Superintendent

**ELK GROVE UNIFIED SCHOOL DISTRICT
EMPLOYMENT AGREEMENT
ASSOCIATE SUPERINTENDENT**

This Employment Agreement ("Agreement") is made and entered into by and between the Elk Grove Unified School District ("District" or "Board") and Glen De Graw ("Associate Superintendent").

RECITALS

The parties agree as follows:

1. **Employment.** The District hereby hires and employs the Associate Superintendent to act and serve as its Associate Superintendent of Human Resources and Associate Superintendent hereby accepts such employment and agrees to satisfactorily perform the duties of the position during the term of this Agreement.

2. **Term.** The term of this Agreement is from July 1, 2012 until June 30, 2015 unless terminated earlier or extended as provided by the terms of this Agreement or as required by law.

3. **Work Year.** Associate Superintendent's work year shall be 246 days.

4. **Compensation.** For and in consideration of the services rendered by Associate Superintendent, Associate Superintendent shall receive the following compensation:

a. **Salary.**

i. **Salary.** For the 2012-2013 school year, the Associate Superintendent shall be placed on step 4 of the Associate Superintendent's salary schedule. Step 4 of the Associate Superintendent's salary schedule is One Hundred Seventy Thousand Three Hundred Seventy-One Dollars (\$170,371). No lottery stipend shall be paid to the Associate Superintendent.

ii. **Cost of Living Adjustment ("COLA").** During the term of this Agreement, on an annual basis, Associate Superintendent shall receive the same COLA, if any, provided to the District's certificated managers. The COLA shall be paid to the Associate Superintendent, prospectively or retroactively, in the same manner as provided to other District certificated managers. Cost of living increases, however, shall only be granted if the Associate Superintendent receives a satisfactory evaluation from the Superintendent and the Board concurs. All COLA increases shall be approved by the Board each year in open session at a regularly called Board meeting.

iii. **Step Increases.** Subject to Associate Superintendent's receipt of a satisfactory annual evaluation, the Associate Superintendent shall receive an annual step increase of 3.5%, effective on July 1, in addition to the COLA and any other Board approved salary adjustment, if Associate Superintendent is eligible for a step

increase. Step increases are limited to a maximum of five (5). Step increases must be approved by the Board each year in open session at a regularly called Board meeting.

iv. **Salary Payments.** The Associate Superintendent's salary shall be payable once every month not later than the last day of each month less all applicable taxes and other deductions required by law or authorized by the Associate Superintendent.

v. **Salary Changes.** During the term of this Agreement, the Board reserves the right to increase from time-to-time the salary payable to the Associate Superintendent to be effective prospectively or retroactively on any date ordered by the Board in accordance with Education Code section 35032. A change in salary shall not constitute the creation of a new contract nor extend the termination date of this Agreement.

b. **Vacation.** The Associate Superintendent shall, during the term of this Agreement, earn and accrue 1.92 days of vacation leave with pay for each full month of service rendered (the equivalent of 23 days per year). Utilization of accrued vacation leave shall be subject to approval by the Superintendent. The Associate Superintendent shall not accrue more than 46 days of vacation. If earned and accumulated vacation days reach a total of 46, further accrual of vacation will cease until accumulated vacation is used and at that time vacation accrual commences. In the event of the termination or expiration of this Agreement for any reason, the Associate Superintendent shall be entitled to compensation for no more than 46 days of accrued and unused vacation leave at Associate Superintendent's then current daily rate of salary.

c. **Sick Leave.** The Associate Superintendent shall, during the term of this Agreement, earn and accrue one (1) day of sick leave with pay for each full month of service rendered. Time off required by the Associate Superintendent for illness or injury which is not covered by earned and accrued sick leave with pay, earned and accrued vacation with pay or other paid leaves as provided for by law, shall be uncompensated. The District shall be authorized to require verification of sick leave and vacation usage from time-to-time, as it deems appropriate.

d. **Fringe Benefits.** The Associate Superintendent shall be entitled to employee and dependent health care coverage under the same group medical, dental, optical, and other group health insurance plans which are provided to certificated employees covered by the EGEA collective bargaining agreement on the same terms and conditions, and subject to the same co-pays, deductibles and premium payment requirements as such benefits are provided to EGEA covered employees, as those benefits may change from time-to-time through negotiations with EGEA.

e. **Holidays.** The Associate Superintendent shall be entitled to the same number and types of holidays with pay as are provided to other certificated management personnel.

f. **Transportation Allowance.** The Associate Superintendent shall acquire, use, maintain and insure a personal automobile for school district business at the Associate Superintendent's sole cost and expense. The Associate Superintendent shall receive a monthly automobile mileage allowance of \$400 for travel within the District's boundaries, irrespective of the number of miles traveled on District business. The allowance shall be considered taxable income. No documentation is required in order to receive this allowance. Except in an emergency, the Associate Superintendent shall not utilize vehicle, fuel, or repair services provided by the District. In addition, the Associate Superintendent shall be solely responsible for any tax and retirement consequences resulting from receipt of this allowance and shall defend, indemnify and hold the District harmless from all such consequences.

g. **Business Expense Allowance.** Associate Superintendent shall receive \$400 per month for business expenses that the Associate Superintendent incurs in the official performance of Associate Superintendent's duties and responsibilities. The allowance shall be considered taxable income. No documentation is required in order to receive this allowance. The Associate Superintendent shall be solely responsible for any tax or retirement consequences resulting from receipt of this allowance and shall defend, indemnify and hold the District harmless from all such consequences.

h. **Conference Expenses.** During the term of this Agreement, the Associate Superintendent shall attend educational or other conferences that the Superintendent deems appropriate. The actual and necessary travel, food, lodging, incidental expenses, and registration costs for events held outside of the District shall be reimbursable, subject to all verification and claims procedures and reimbursable expenditure limitations as are from time-to-time established by Board policy or administrative regulation.

i. **Expense Reimbursement.** The District shall reimburse the Associate Superintendent for actual and necessary expenses incurred within the scope of the Associate Superintendent's employment, including mileage reimbursement for travel outside of the District, so long as such expenses are permitted by District policy or incurred with prior approval of the Board and so long as the cost of the expense is not already provided for under the terms of this Agreement. For reimbursement, the Superintendent shall submit an expense claim in writing supported by appropriate written documentation.

5. **Physical Examination.** The Associate Superintendent agrees to have an examination by a District-appointed physician when requested by the Superintendent. Any expense beyond that paid by District insurance will be borne by the District. The physician's report of the Associate Superintendent's examination shall be filed with the Superintendent and shall be treated as confidential information. The examining physician's report shall address the fitness of the Associate Superintendent to perform his/her duties. The Associate Superintendent agrees to execute any necessary medical releases or other documents to facilitate this fitness for duty examination.

6. **Duties.** In accordance with the policies adopted by the Board and rules

and regulations of the Board of Education, the Associate Superintendent shall perform such duties and assume such responsibilities as are contained in the Associate Superintendent's job description or as assigned by the Superintendent. Specifically, Associate Superintendent shall have primary responsibility for the District's Human Resources program.

7. **Management Hours.** It is understood that the demands of Associate Superintendent's position will require Associate Superintendent to average more than an eight-hour workday or a forty-hour workweek; therefore, the parties agree that Associate Superintendent shall not be entitled to overtime compensation.

8. **Outside Professional Activities.** The Associate Superintendent shall be authorized to undertake outside professional activities for compensation including consulting, speaking, and writing, provided that Associate Superintendent shall devote so much of Associate Superintendent's time and energy to the performance of the duties of the position as are required to adequately perform the duties and responsibilities of the position. The Associate Superintendent's performance of the duties and responsibilities shall take precedence over any outside activities, and the Superintendent may disapprove time-off by the Associate Superintendent during the normal workweek to engage in such outside activity. The Associate Superintendent agrees not to use District property or staff in performing outside professional activities without prior approval of the Superintendent. In no case will the District be responsible for any expenses attendant to the performance of such outside activities unless prior approval is obtained.

9. **Contract Extension.** If the Associate Superintendent receives a satisfactory evaluation as set forth below, the term of Associate Superintendent's Agreement shall be extended by one additional year (e.g., if Associate Superintendent receives a satisfactory evaluation for the 2012-2013 school year, the term of this Agreement shall be extended from June 30, 2015 to June 30, 2016.)

10. **Evaluation.** The Superintendent shall annually evaluate the Associate Superintendent's performance by June 30 of each year. At the conclusion of the evaluation for the school year, the Superintendent shall designate in writing on the Associate Superintendent's evaluation form whether or not the evaluation is "satisfactory" or "unsatisfactory."

If the Superintendent determines that the Associate Superintendent's evaluation is "satisfactory," and the Board concurs, the Associate Superintendent shall be entitled to: (1) a salary step increase as provided in section 2 until Associate Superintendent reaches the end of the salary schedule steps; (2) a COLA increase as provided in section 2; and (3) a one year contract extension.

If the Superintendent determines that the Associate Superintendent's evaluation is "unsatisfactory," the Associate Superintendent's salary and contract term shall remain unchanged.

If the Superintendent does not complete the evaluation by June 30 of any year under this Agreement, the Superintendent shall take prompt immediate action to

complete the evaluation. If the evaluation is completed after June 30, it is satisfactory, and the Board concurs, the Associate Superintendent shall be entitled to retroactive application of the salary step increase, the COLA, if any, and the one year contract extension.

Any evaluation conducted under this paragraph must be ratified by the Board and reported in open session. In addition, any contract extension, salary step increase or COLA increase must be approved by the Board in open session at a regular meeting so that the public remains informed about the Associate Superintendent's current step placement and the contract term.

11. **Termination.** This Agreement may be terminated on any of the following bases:

a. **Mutual Consent.** By mutual agreement, this Agreement may be terminated at any time.

b. **Resignation.** The Associate Superintendent may resign and terminate this Agreement only by providing the Board with at least sixty (60) days advance written notice, unless the parties agree otherwise.

c. **Non-Renewal of Agreement by the District.** The Board may elect not to renew this Agreement upon its expiration by providing written notice to the Associate Superintendent in accordance with Education Code section 35031 (currently 45-days prior notice), or other applicable provisions of law. The Associate Superintendent shall inform the Board President of this notice requirement at least ninety (90) days in advance of expiration of this Agreement.

d. **Termination for Cause.** The Board may terminate the Associate Superintendent as follows: (1) if the Associate Superintendent refuses or fails to follow a lawful directive or order of the Board or the Superintendent; (2) breach of this Agreement; (3) unsatisfactory performance as established through the evaluation process; (4) misconduct or dishonest behavior with regard to the Associate Superintendent's employment; or (5) conviction of a crime involving: dishonesty, breach of trust, or physical or emotional harm to any person. The existence of such cause shall constitute a material breach of this Agreement and shall extinguish all rights and duties of the parties under this Agreement.

If such cause exists, the Superintendent shall meet with the Associate Superintendent and shall submit a written statement to the Board and the Associate Superintendent of the grounds for termination and copies of written documents the District believes supports the termination. If the Associate Superintendent disputes the charges, the Associate Superintendent shall then be entitled to a conference before the Board in closed session. The Associate Superintendent and the Board shall each have the right to be represented by counsel at their own expense. The Associate Superintendent shall have a reasonable opportunity to respond to all matters raised in the charges. The conference with the Board shall not be an evidentiary hearing and neither party shall have the opportunity to call witnesses. If the Board, after considering all evidence presented, decides to terminate this Agreement, it shall provide the

Associate Superintendent with a written decision.

The decision of the Board shall be final. The Associate Superintendent's conference before the Board shall be deemed to satisfy the Associate Superintendent's entitlement to due process of law and shall be the Associate Superintendent's exclusive right to any conference or hearing otherwise required by law. The Associate Superintendent waives any other rights that may be applicable to this termination for cause proceeding with the understanding that completion of this hearing exhausts the Associate Superintendent's administrative remedies and then authorizes the Associate Superintendent to contest the Board's determination in a court of competent jurisdiction.

e. **Termination without Cause.** If, for any reason, without cause or a hearing, at any time, the Board determines, in its sole discretion, that such action is in the best interest of the District, the Board may unilaterally terminate this Agreement. In consideration for the exercise of this right, the District shall pay to the Associate Superintendent from the date of termination until the expiration of this Agreement, or for a period of eighteen (18) months, whichever is less, a sum equal to the difference between Associate Superintendent's base salary at the rate in effect during the Associate Superintendent's last month of service and the amount which the Associate Superintendent earns from any other employment-related source (whether as employee, independent contractor, consultant or self-employed).

Payments to the Associate Superintendent shall be made on a monthly basis unless the parties agree in writing otherwise. As a condition of receiving such monthly payments, the Associate Superintendent shall be obligated to immediately seek other full-time employment in good faith and to notify the District in writing immediately if Associate Superintendent earns income from any employment-related source.

For purposes of this Agreement, the term "salary" shall include only the Associate Superintendent's regular monthly base salary and shall not include the value of any other stipends, reimbursements or benefits received under this Agreement. All payments made pursuant to this termination without cause provision shall be subject to applicable payroll deductions and shall be treated as compensation for state and federal tax purposes. No payments made pursuant to this early termination provision shall constitute creditable service, creditable compensation or compensation earnable for CalSTRS or CalPERS retirement purposes. Payments made pursuant to this termination without cause provision shall be considered as final settlement pay; accordingly, no deductions shall be made for retirement purposes.

The Associate Superintendent shall also be entitled to a continued District contribution toward health benefits, as those benefits may change from time-to-time, for the remainder of the unexpired term of this Agreement, for a period of eighteen (18) months, or until the Associate Superintendent obtains other employment, whichever occurs first.

If the Associate Superintendent is terminated without cause and elects to retire instead of fulfilling the Associate Superintendent's obligation to seek other

employment as set forth above, the parties agree that, effective upon the date of the Associate Superintendent's retirement with the CalSTRS or CalPERS, the amount payable to the Associate Superintendent as salary shall be reduced by the amount of retirement income earned by the Associate Superintendent from CalSTRS or CalPERS.

The parties agree that any damages to the Associate Superintendent that may result from the Board's early termination of this Agreement without cause cannot be readily ascertained. Accordingly, the parties agree that the payments made pursuant to this termination without cause provision, along with the District's agreement to provide health benefits, constitutes reasonable liquidated damages for the Associate Superintendent, fully compensates the Associate Superintendent for all tort, contract, and other damages of any nature whatsoever, whether in law or equity, and does not result in a penalty. The parties agree that the District's completion of its obligations under this provision constitutes the Associate Superintendent's sole remedy to the fullest extent provided by law.

Finally, the parties agree that this provision meets the requirements governing maximum cash settlements as set forth in Government Code section 53260 et seq. and that any payment of cash or other consideration to the Associate Superintendent pursuant to a settlement agreement resulting from the termination of this Agreement by the Board is subject to the limitations and requirements contained in Government Code sections 53260 et seq. and other applicable provisions of law, as the law may be amended from time-to-time.

f. **Termination for Inappropriate Fiscal Practices.**

Notwithstanding any other provision of this Agreement to the contrary, if the Board believes, and subsequently confirms through an independent audit, that the Associate Superintendent has engaged in fraud, misappropriation of funds, or other illegal fiscal practices, then the Board may terminate the Associate Superintendent without cause and the Associate Superintendent shall not be entitled to any cash, salary payments, health benefits or other non-cash settlement as set forth above. This provision is intended to implement the requirements of Government Code section 53260(b).

g. **Disability.** Upon expiration of the Associate Superintendent's entitlement to current and accumulated sick leave and differential leave, and upon written evaluation by a licensed physician designated by the District indicating the inability of the Associate Superintendent to perform the essential functions of the position, with or without reasonable accommodation, this Agreement may be immediately terminated by the Board upon written notice to the Associate Superintendent.

h. **Death.** Death of the Associate Superintendent immediately terminates this Agreement.

12. **Abuse of Office Provisions.** In accordance with Government Code section 53243 et seq., and as a separate contractual obligation, should the Associate Superintendent receive a paid leave of absence or cash settlement if this contract is terminated with or without cause, such paid leave or cash settlement shall be fully reimbursed to the District by the Associate Superintendent if the Associate

Superintendent is convicted of a crime involving an abuse of his/her office or position. In addition, if the District funds the criminal defense of the Associate Superintendent against charges involving abuse of office or position and the Associate Superintendent is then convicted of such charges, the Associate Superintendent shall fully reimburse the District all funds expended for his/her criminal defense.

13. **Notice.** Notices by the Board of Education shall be deemed served either on the date on which it is personally served upon the Associate Superintendent or the date on which it is deposited in the United States Mail, postage prepaid, and addressed as follows:

Glen De Graw, Associate Superintendent
Elk Grove Unified School District
9510 Elk Grove-Florin Road
Elk Grove, California 95624

14. **Notice of Finalist in Search.** The Associate Superintendent shall immediately notify the Superintendent should he/she become a finalist in the selection process for any position with any other employer.

15. **Waiver.** No waiver of any breach of any term or provision of this Agreement shall be construed to be, nor shall it be, a waiver of any other breach of this Agreement. No waiver shall be binding unless in writing and signed by the party waiving the breach.

16. **Complete Agreement.** This Agreement constitutes and contains the entire agreement and understanding between the parties concerning the Associate Superintendent's employment with the District. This instrument supersedes and replaces all prior agreements, modifications and addendums and all prior proposals and negotiations, whether written or oral, concerning the Associate Superintendent's employment with the District. This is an integrated document.

17. **Governing Law.** This Agreement shall be deemed to have been executed and delivered within the State of California, and rights and obligations of the parties hereunder shall be construed and enforced in accordance with, and governed by, the laws of the State of California without regard to principles of conflict of laws.

18. **Construction.** Each party has cooperated in the drafting and preparation of this Agreement. Hence, in any construction to be made of this Agreement, the same shall not be construed against any party on the basis that the party was the drafter. The captions of this Agreement are not part of the provisions hereof and shall have no force or effect.

19. **Execution.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Photographic copies of such signed counterparts may be used in lieu of the originals for any purpose.

20. **No Assignment.** The Associate Superintendent may not assign or transfer any rights granted or obligations assumed under this Agreement.

21. **Modification.** This Agreement cannot be changed or supplemented orally. It may be modified or superseded only by a written instrument executed by both parties.

22. **Exclusivity.** To the extent permitted by law, the parties agree that the employment relationship between the District and the Associate Superintendent shall be governed exclusively by the provisions of this Agreement.

23. **Independent Representation.** The Associate Superintendent and the Board each recognize that in entering into this Agreement, the parties have relied upon the advice of their own attorneys, financial advisors and other representatives, and that the terms of this Agreement have been completely read and explained to them by their attorneys, financial advisors and other representatives and that those terms are fully understood and voluntarily accepted by them.

24. **Savings Clause.** If any provision of this Agreement or its application is held invalid, the invalidity shall not affect the other provisions or applications of the Agreement that can be given effect without the invalid provisions or applications and the provisions of this Agreement are declared to be severable.

25. **Board Approval.** The effectiveness of this Agreement shall be contingent upon approval by the District's Board as required by law.

26. **Binding Effect.** This Agreement shall be for the benefit of and shall be binding upon all parties and their respective successors, heirs, and assigns.

27. **Public Record.** The parties recognize that, once final, this Agreement is a public record and must be made available to the public upon request.

28. **Credentials.** The Associate Superintendent hereby certifies that the Associate Superintendent holds legal and valid administrative and teaching credentials which he/she shall maintain in effect throughout the life of this Agreement, and shall keep on file in the Office of the County Superintendent of Schools of Sacramento County.

29. **Tax/Retirement Liability.** District makes no representations or warranties with respect to the tax or retirement consequences of this Agreement. Notwithstanding any other provision of this Agreement, the District shall not be liable for any state or federal tax consequences or any retirement consequences of any nature as a result of this Agreement including, but not limited to, retiree health benefits, life insurance or other benefits provided to the Associate Superintendent or any designated beneficiary, heirs, administrators, executors, successors or assigns of the Associate Superintendent. The Associate Superintendent shall assume sole liability for all state and federal tax consequences and all retirement consequences of any nature occurring at any time. Associate Superintendent further declares that, prior to signing this Agreement, the Associate Superintendent was apprised of relevant data and received independent advice

and counsel regarding the state and federal tax consequences and the retirement consequences of this Agreement.

30. **Execution of Other Documents.** The parties shall cooperate fully in the execution of any other documents and in the completion of any other acts that may be necessary or appropriate to give full force and effect to this Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement the day, month and year first above written.

BOARD OF EDUCATION
ELK GROVE UNIFIED SCHOOL DISTRICT

By: _____
Chet Madison
Board President

Dated: June ____, 2012

ACCEPTANCE OF OFFER

I accept the above offer of employment and the terms and conditions thereof and will report for duty as directed above.

I have not entered into an Agreement of employment with the Governing Board of another school district or any other employer that will in any way conflict with the terms of this employment agreement.

I understand that the District is relying upon information provided by me during the application process in extending this offer of employment. By signing below, I represent that I have not provided the District with any false information or made any material misrepresentation during the job application process. I agree that false, incomplete, or misleading statements or omissions made during the job application process constitute dishonesty and breach of this Agreement and are grounds for termination of this Agreement for cause.

DATED: June ____, 2012

Glen De Graw
Associate Superintendent

**ELK GROVE UNIFIED SCHOOL DISTRICT
EMPLOYMENT AGREEMENT
ASSOCIATE SUPERINTENDENT**

This Employment Agreement ("Agreement") is made and entered into by and between the Elk Grove Unified School District ("District" or "Board") and Donna Cherry ("Associate Superintendent").

RECITALS

The parties agree as follows:

1. **Employment.** The District hereby hires and employs the Associate Superintendent to act and serve as its Associate Superintendent of PreK-6 Education and Associate Superintendent hereby accepts such employment and agrees to satisfactorily perform the duties of the position during the term of this Agreement.

2. **Term.** The term of this Agreement is from July 1, 2012 until June 30, 2015 unless terminated earlier or extended as provided by the terms of this Agreement or as required by law.

3. **Work Year.** Associate Superintendent's work year shall be 246 days.

4. **Compensation.** For and in consideration of the services rendered by Associate Superintendent, Associate Superintendent shall receive the following compensation:

a. **Salary.**

i. **Salary.** For the 2012-2013 school year, the Associate Superintendent shall be placed on step 4 of the Associate Superintendent's salary schedule. Step 4 of the Associate Superintendent's salary schedule is One Hundred Seventy Thousand Three Hundred Seventy-One Dollars (\$170,371). No lottery stipend shall be paid to the Associate Superintendent.

ii. **Cost of Living Adjustment ("COLA").** During the term of this Agreement, on an annual basis, Associate Superintendent shall receive the same COLA, if any, provided to the District's certificated managers. The COLA shall be paid to the Associate Superintendent, prospectively or retroactively, in the same manner as provided to other District certificated managers. Cost of living increases, however, shall only be granted if the Associate Superintendent receives a satisfactory evaluation from the Superintendent and the Board concurs. All COLA increases shall be approved by the Board each year in open session at a regularly called Board meeting.

iii. **Step Increases.** Subject to Associate Superintendent's receipt of a satisfactory annual evaluation, the Associate Superintendent shall receive an annual step increase of 3.5%, effective on July 1, in addition to the COLA and any other Board approved salary adjustment, if Associate Superintendent is eligible for a step

increase. Step increases are limited to a maximum of five (5). Step increases must be approved by the Board each year in open session at a regularly called Board meeting.

iv. **Salary Payments.** The Associate Superintendent's salary shall be payable once every month not later than the last day of each month less all applicable taxes and other deductions required by law or authorized by the Associate Superintendent.

v. **Salary Changes.** During the term of this Agreement, the Board reserves the right to increase from time-to-time the salary payable to the Associate Superintendent to be effective prospectively or retroactively on any date ordered by the Board in accordance with Education Code section 35032. A change in salary shall not constitute the creation of a new contract nor extend the termination date of this Agreement.

b. **Vacation.** The Associate Superintendent shall, during the term of this Agreement, earn and accrue 1.92 days of vacation leave with pay for each full month of service rendered (the equivalent of 23 days per year). Utilization of accrued vacation leave shall be subject to approval by the Superintendent. The Associate Superintendent shall not accrue more than 46 days of vacation. If earned and accumulated vacation days reach a total of 46, further accrual of vacation will cease until accumulated vacation is used and at that time vacation accrual commences. In the event of the termination or expiration of this Agreement for any reason, the Associate Superintendent shall be entitled to compensation for no more than 46 days of accrued and unused vacation leave at Associate Superintendent's then current daily rate of salary.

c. **Sick Leave.** The Associate Superintendent shall, during the term of this Agreement, earn and accrue one (1) day of sick leave with pay for each full month of service rendered. Time off required by the Associate Superintendent for illness or injury which is not covered by earned and accrued sick leave with pay, earned and accrued vacation with pay or other paid leaves as provided for by law, shall be uncompensated. The District shall be authorized to require verification of sick leave and vacation usage from time-to-time, as it deems appropriate.

d. **Fringe Benefits.** The Associate Superintendent shall be entitled to employee and dependent health care coverage under the same group medical, dental, optical, and other group health insurance plans which are provided to certificated employees covered by the EGEA collective bargaining agreement on the same terms and conditions, and subject to the same co-pays, deductibles and premium payment requirements as such benefits are provided to EGEA covered employees, as those benefits may change from time-to-time through negotiations with EGEA.

e. **Holidays.** The Associate Superintendent shall be entitled to the same number and types of holidays with pay as are provided to other certificated management personnel.

f. **Transportation Allowance.** The Associate Superintendent shall acquire, use, maintain and insure a personal automobile for school district business at the Associate Superintendent's sole cost and expense. The Associate Superintendent shall receive a monthly automobile mileage allowance of \$400 for travel within the District's boundaries, irrespective of the number of miles traveled on District business. The allowance shall be considered taxable income. No documentation is required in order to receive this allowance. Except in an emergency, the Associate Superintendent shall not utilize vehicle, fuel, or repair services provided by the District. In addition, the Associate Superintendent shall be solely responsible for any tax and retirement consequences resulting from receipt of this allowance and shall defend, indemnify and hold the District harmless from all such consequences.

g. **Business Expense Allowance.** Associate Superintendent shall receive \$400 per month for business expenses that the Associate Superintendent incurs in the official performance of Associate Superintendent's duties and responsibilities. The allowance shall be considered taxable income. No documentation is required in order to receive this allowance. The Associate Superintendent shall be solely responsible for any tax or retirement consequences resulting from receipt of this allowance and shall defend, indemnify and hold the District harmless from all such consequences.

h. **Conference Expenses.** During the term of this Agreement, the Associate Superintendent shall attend educational or other conferences that the Superintendent deems appropriate. The actual and necessary travel, food, lodging, incidental expenses, and registration costs for events held outside of the District shall be reimbursable, subject to all verification and claims procedures and reimbursable expenditure limitations as are from time-to-time established by Board policy or administrative regulation.

i. **Expense Reimbursement.** The District shall reimburse the Associate Superintendent for actual and necessary expenses incurred within the scope of the Associate Superintendent's employment, including mileage reimbursement for travel outside of the District, so long as such expenses are permitted by District policy or incurred with prior approval of the Board and so long as the cost of the expense is not already provided for under the terms of this Agreement. For reimbursement, the Superintendent shall submit an expense claim in writing supported by appropriate written documentation.

5. **Physical Examination.** The Associate Superintendent agrees to have an examination by a District-appointed physician when requested by the Superintendent. Any expense beyond that paid by District insurance will be borne by the District. The physician's report of the Associate Superintendent's examination shall be filed with the Superintendent and shall be treated as confidential information. The examining physician's report shall address the fitness of the Associate Superintendent to perform his/her duties. The Associate Superintendent agrees to execute any necessary medical releases or other documents to facilitate this fitness for duty examination.

6. **Duties.** In accordance with the policies adopted by the Board and rules

and regulations of the Board of Education, the Associate Superintendent shall perform such duties and assume such responsibilities as are contained in the Associate Superintendent's job description or as assigned by the Superintendent. Specifically, Associate Superintendent shall have primary responsibility for the District's PreK-6 Education program.

7. **Management Hours.** It is understood that the demands of Associate Superintendent's position will require Associate Superintendent to average more than an eight-hour workday or a forty-hour workweek; therefore, the parties agree that Associate Superintendent shall not be entitled to overtime compensation.

8. **Outside Professional Activities.** The Associate Superintendent shall be authorized to undertake outside professional activities for compensation including consulting, speaking, and writing, provided that Associate Superintendent shall devote so much of Associate Superintendent's time and energy to the performance of the duties of the position as are required to adequately perform the duties and responsibilities of the position. The Associate Superintendent's performance of the duties and responsibilities shall take precedence over any outside activities, and the Superintendent may disapprove time-off by the Associate Superintendent during the normal workweek to engage in such outside activity. The Associate Superintendent agrees not to use District property or staff in performing outside professional activities without prior approval of the Superintendent. In no case will the District be responsible for any expenses attendant to the performance of such outside activities unless prior approval is obtained.

9. **Contract Extension.** If the Associate Superintendent receives a satisfactory evaluation as set forth below, the term of Associate Superintendent's Agreement shall be extended by one additional year (e.g., if Associate Superintendent receives a satisfactory evaluation for the 2012-2013 school year, the term of this Agreement shall be extended from June 30, 2015 to June 30, 2016.)

10. **Evaluation.** The Superintendent shall annually evaluate the Associate Superintendent's performance by June 30 of each year. At the conclusion of the evaluation for the school year, the Superintendent shall designate in writing on the Associate Superintendent's evaluation form whether or not the evaluation is "satisfactory" or "unsatisfactory."

If the Superintendent determines that the Associate Superintendent's evaluation is "satisfactory," and the Board concurs, the Associate Superintendent shall be entitled to: (1) a salary step increase as provided in section 2 until Associate Superintendent reaches the end of the salary schedule steps; (2) a COLA increase as provided in section 2; and (3) a one year contract extension.

If the Superintendent determines that the Associate Superintendent's evaluation is "unsatisfactory," the Associate Superintendent's salary and contract term shall remain unchanged.

If the Superintendent does not complete the evaluation by June 30 of any year under this Agreement, the Superintendent shall take prompt immediate action to

complete the evaluation. If the evaluation is completed after June 30, it is satisfactory, and the Board concurs, the Associate Superintendent shall be entitled to retroactive application of the salary step increase, the COLA, if any, and the one year contract extension.

Any evaluation conducted under this paragraph must be ratified by the Board and reported in open session. In addition, any contract extension, salary step increase or COLA increase must be approved by the Board in open session at a regular meeting so that the public remains informed about the Associate Superintendent's current step placement and the contract term.

11. **Termination.** This Agreement may be terminated on any of the following bases:

a. **Mutual Consent.** By mutual agreement, this Agreement may be terminated at any time.

b. **Resignation.** The Associate Superintendent may resign and terminate this Agreement only by providing the Board with at least sixty (60) days advance written notice, unless the parties agree otherwise.

c. **Non-Renewal of Agreement by the District.** The Board may elect not to renew this Agreement upon its expiration by providing written notice to the Associate Superintendent in accordance with Education Code section 35031 (currently 45-days prior notice), or other applicable provisions of law. The Associate Superintendent shall inform the Board President of this notice requirement at least ninety (90) days in advance of expiration of this Agreement.

d. **Termination for Cause.** The Board may terminate the Associate Superintendent as follows: (1) if the Associate Superintendent refuses or fails to follow a lawful directive or order of the Board or the Superintendent; (2) breach of this Agreement; (3) unsatisfactory performance as established through the evaluation process; (4) misconduct or dishonest behavior with regard to the Associate Superintendent's employment; or (5) conviction of a crime involving: dishonesty, breach of trust, or physical or emotional harm to any person. The existence of such cause shall constitute a material breach of this Agreement and shall extinguish all rights and duties of the parties under this Agreement.

If such cause exists, the Superintendent shall meet with the Associate Superintendent and shall submit a written statement to the Board and the Associate Superintendent of the grounds for termination and copies of written documents the District believes supports the termination. If the Associate Superintendent disputes the charges, the Associate Superintendent shall then be entitled to a conference before the Board in closed session. The Associate Superintendent and the Board shall each have the right to be represented by counsel at their own expense. The Associate Superintendent shall have a reasonable opportunity to respond to all matters raised in the charges. The conference with the Board shall not be an evidentiary hearing and neither party shall have the opportunity to call witnesses. If the Board, after considering all evidence presented, decides to terminate this Agreement, it shall provide the

Associate Superintendent with a written decision.

The decision of the Board shall be final. The Associate Superintendent's conference before the Board shall be deemed to satisfy the Associate Superintendent's entitlement to due process of law and shall be the Associate Superintendent's exclusive right to any conference or hearing otherwise required by law. The Associate Superintendent waives any other rights that may be applicable to this termination for cause proceeding with the understanding that completion of this hearing exhausts the Associate Superintendent's administrative remedies and then authorizes the Associate Superintendent to contest the Board's determination in a court of competent jurisdiction.

e. **Termination without Cause.** If, for any reason, without cause or a hearing, at any time, the Board determines, in its sole discretion, that such action is in the best interest of the District, the Board may unilaterally terminate this Agreement. In consideration for the exercise of this right, the District shall pay to the Associate Superintendent from the date of termination until the expiration of this Agreement, or for a period of eighteen (18) months, whichever is less, a sum equal to the difference between Associate Superintendent's base salary at the rate in effect during the Associate Superintendent's last month of service and the amount which the Associate Superintendent earns from any other employment-related source (whether as employee, independent contractor, consultant or self-employed).

Payments to the Associate Superintendent shall be made on a monthly basis unless the parties agree in writing otherwise. As a condition of receiving such monthly payments, the Associate Superintendent shall be obligated to immediately seek other full-time employment in good faith and to notify the District in writing immediately if Associate Superintendent earns income from any employment-related source.

For purposes of this Agreement, the term "salary" shall include only the Associate Superintendent's regular monthly base salary and shall not include the value of any other stipends, reimbursements or benefits received under this Agreement. All payments made pursuant to this termination without cause provision shall be subject to applicable payroll deductions and shall be treated as compensation for state and federal tax purposes. No payments made pursuant to this early termination provision shall constitute creditable service, creditable compensation or compensation earnable for CalSTRS or CalPERS retirement purposes. Payments made pursuant to this termination without cause provision shall be considered as final settlement pay; accordingly, no deductions shall be made for retirement purposes.

The Associate Superintendent shall also be entitled to a continued District contribution toward health benefits, as those benefits may change from time-to-time, for the remainder of the unexpired term of this Agreement, for a period of eighteen (18) months, or until the Associate Superintendent obtains other employment, whichever occurs first.

If the Associate Superintendent is terminated without cause and elects to retire instead of fulfilling the Associate Superintendent's obligation to seek other

employment as set forth above, the parties agree that, effective upon the date of the Associate Superintendent's retirement with the CalSTRS or CalPERS, the amount payable to the Associate Superintendent as salary shall be reduced by the amount of retirement income earned by the Associate Superintendent from CalSTRS or CalPERS.

The parties agree that any damages to the Associate Superintendent that may result from the Board's early termination of this Agreement without cause cannot be readily ascertained. Accordingly, the parties agree that the payments made pursuant to this termination without cause provision, along with the District's agreement to provide health benefits, constitutes reasonable liquidated damages for the Associate Superintendent, fully compensates the Associate Superintendent for all tort, contract, and other damages of any nature whatsoever, whether in law or equity, and does not result in a penalty. The parties agree that the District's completion of its obligations under this provision constitutes the Associate Superintendent's sole remedy to the fullest extent provided by law.

Finally, the parties agree that this provision meets the requirements governing maximum cash settlements as set forth in Government Code section 53260 et seq. and that any payment of cash or other consideration to the Associate Superintendent pursuant to a settlement agreement resulting from the termination of this Agreement by the Board is subject to the limitations and requirements contained in Government Code sections 53260 et seq. and other applicable provisions of law, as the law may be amended from time-to-time.

f. **Termination for Inappropriate Fiscal Practices.**

Notwithstanding any other provision of this Agreement to the contrary, if the Board believes, and subsequently confirms through an independent audit, that the Associate Superintendent has engaged in fraud, misappropriation of funds, or other illegal fiscal practices, then the Board may terminate the Associate Superintendent without cause and the Associate Superintendent shall not be entitled to any cash, salary payments, health benefits or other non-cash settlement as set forth above. This provision is intended to implement the requirements of Government Code section 53260(b).

g. **Disability.** Upon expiration of the Associate Superintendent's entitlement to current and accumulated sick leave and differential leave, and upon written evaluation by a licensed physician designated by the District indicating the inability of the Associate Superintendent to perform the essential functions of the position, with or without reasonable accommodation, this Agreement may be immediately terminated by the Board upon written notice to the Associate Superintendent.

h. **Death.** Death of the Associate Superintendent immediately terminates this Agreement.

12. **Abuse of Office Provisions.** In accordance with Government Code section 53243 et seq., and as a separate contractual obligation, should the Associate Superintendent receive a paid leave of absence or cash settlement if this contract is terminated with or without cause, such paid leave or cash settlement shall be fully reimbursed to the District by the Associate Superintendent if the Associate

Superintendent is convicted of a crime involving an abuse of his/her office or position. In addition, if the District funds the criminal defense of the Associate Superintendent against charges involving abuse of office or position and the Associate Superintendent is then convicted of such charges, the Associate Superintendent shall fully reimburse the District all funds expended for his/her criminal defense.

13. **Notice.** Notices by the Board of Education shall be deemed served either on the date on which it is personally served upon the Associate Superintendent or the date on which it is deposited in the United States Mail, postage prepaid, and addressed as follows:

Donna Cherry, Associate Superintendent
Elk Grove Unified School District
9510 Elk Grove-Florin Road
Elk Grove, California 95624

14. **Notice of Finalist in Search.** The Associate Superintendent shall immediately notify the Superintendent should he/she become a finalist in the selection process for any position with any other employer.

15. **Waiver.** No waiver of any breach of any term or provision of this Agreement shall be construed to be, nor shall it be, a waiver of any other breach of this Agreement. No waiver shall be binding unless in writing and signed by the party waiving the breach.

16. **Complete Agreement.** This Agreement constitutes and contains the entire agreement and understanding between the parties concerning the Associate Superintendent's employment with the District. This instrument supersedes and replaces all prior agreements, modifications and addendums and all prior proposals and negotiations, whether written or oral, concerning the Associate Superintendent's employment with the District. This is an integrated document.

17. **Governing Law.** This Agreement shall be deemed to have been executed and delivered within the State of California, and rights and obligations of the parties hereunder shall be construed and enforced in accordance with, and governed by, the laws of the State of California without regard to principles of conflict of laws.

18. **Construction.** Each party has cooperated in the drafting and preparation of this Agreement. Hence, in any construction to be made of this Agreement, the same shall not be construed against any party on the basis that the party was the drafter. The captions of this Agreement are not part of the provisions hereof and shall have no force or effect.

19. **Execution.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Photographic copies of such signed counterparts may be used in lieu of the originals for any purpose.

20. **No Assignment.** The Associate Superintendent may not assign or transfer any rights granted or obligations assumed under this Agreement.

21. **Modification.** This Agreement cannot be changed or supplemented orally. It may be modified or superseded only by a written instrument executed by both parties.

22. **Exclusivity.** To the extent permitted by law, the parties agree that the employment relationship between the District and the Associate Superintendent shall be governed exclusively by the provisions of this Agreement.

23. **Independent Representation.** The Associate Superintendent and the Board each recognize that in entering into this Agreement, the parties have relied upon the advice of their own attorneys, financial advisors and other representatives, and that the terms of this Agreement have been completely read and explained to them by their attorneys, financial advisors and other representatives and that those terms are fully understood and voluntarily accepted by them.

24. **Savings Clause.** If any provision of this Agreement or its application is held invalid, the invalidity shall not affect the other provisions or applications of the Agreement that can be given effect without the invalid provisions or applications and the provisions of this Agreement are declared to be severable.

25. **Board Approval.** The effectiveness of this Agreement shall be contingent upon approval by the District's Board as required by law.

26. **Binding Effect.** This Agreement shall be for the benefit of and shall be binding upon all parties and their respective successors, heirs, and assigns.

27. **Public Record.** The parties recognize that, once final, this Agreement is a public record and must be made available to the public upon request.

28. **Credentials.** The Associate Superintendent hereby certifies that the Associate Superintendent holds legal and valid administrative and teaching credentials which he/she shall maintain in effect throughout the life of this Agreement, and shall keep on file in the Office of the County Superintendent of Schools of Sacramento County.

29. **Tax/Retirement Liability.** District makes no representations or warranties with respect to the tax or retirement consequences of this Agreement. Notwithstanding any other provision of this Agreement, the District shall not be liable for any state or federal tax consequences or any retirement consequences of any nature as a result of this Agreement including, but not limited to, retiree health benefits, life insurance or other benefits provided to the Associate Superintendent or any designated beneficiary, heirs, administrators, executors, successors or assigns of the Associate Superintendent. The Associate Superintendent shall assume sole liability for all state and federal tax consequences and all retirement consequences of any nature occurring at any time. Associate Superintendent further declares that, prior to signing this Agreement, the Associate Superintendent was apprised of relevant data and received independent advice

and counsel regarding the state and federal tax consequences and the retirement consequences of this Agreement.

30. **Execution of Other Documents.** The parties shall cooperate fully in the execution of any other documents and in the completion of any other acts that may be necessary or appropriate to give full force and effect to this Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement the day, month and year first above written.

BOARD OF EDUCATION
ELK GROVE UNIFIED SCHOOL DISTRICT

By: _____
Chet Madison
Board President

Dated: June ____, 2012

ACCEPTANCE OF OFFER

I accept the above offer of employment and the terms and conditions thereof and will report for duty as directed above.

I have not entered into an Agreement of employment with the Governing Board of another school district or any other employer that will in any way conflict with the terms of this employment agreement.

I understand that the District is relying upon information provided by me during the application process in extending this offer of employment. By signing below, I represent that I have not provided the District with any false information or made any material misrepresentation during the job application process. I agree that false, incomplete, or misleading statements or omissions made during the job application process constitute dishonesty and breach of this Agreement and are grounds for termination of this Agreement for cause.

DATED: June ____, 2012

Donna Cherry
Associate Superintendent

**ELK GROVE UNIFIED SCHOOL DISTRICT
EMPLOYMENT AGREEMENT
ASSOCIATE SUPERINTENDENT**

This Employment Agreement ("Agreement") is made and entered into by and between the Elk Grove Unified School District ("District" or "Board") and Rich Fagan ("Associate Superintendent").

RECITALS

The parties agree as follows:

1. **Employment.** The District hereby hires and employs the Associate Superintendent to act and serve as its Associate Superintendent of Finance and School Support and Associate Superintendent hereby accepts such employment and agrees to satisfactorily perform the duties of the position during the term of this Agreement.
2. **Term.** The term of this Agreement is from July 1, 2012 until June 30, 2015 unless terminated earlier or extended as provided by the terms of this Agreement or as required by law.
3. **Work Year.** Associate Superintendent's work year shall be 246 days.
4. **Compensation.** For and in consideration of the services rendered by Associate Superintendent, Associate Superintendent shall receive the following compensation:
 - a. **Salary.**
 - i. **Salary.** For the 2012-2013 school year, the Associate Superintendent shall be placed on step 3 of the Associate Superintendent's salary schedule. Step 3 of the Associate Superintendent's salary schedule is One Hundred Sixty-Four Thousand Six Hundred and Six Dollars (\$164,609). No lottery stipend shall be paid to the Associate Superintendent.
 - ii. **Cost of Living Adjustment ("COLA").** During the term of this Agreement, on an annual basis, Associate Superintendent shall receive the same COLA, if any, provided to the District's certificated managers. The COLA shall be paid to the Associate Superintendent, prospectively or retroactively, in the same manner as provided to other District certificated managers. Cost of living increases, however, shall only be granted if the Associate Superintendent receives a satisfactory evaluation from the Superintendent and the Board concurs. All COLA increases shall be approved by the Board each year in open session at a regularly called Board meeting.
 - iii. **Step Increases.** Subject to Associate Superintendent's receipt of a satisfactory annual evaluation, the Associate Superintendent shall receive an annual step increase of 3.5%, effective on July 1, in addition to the COLA and any other Board approved salary adjustment, if Associate Superintendent is eligible for a step

increase. Step increases are limited to a maximum of five (5). Step increases must be approved by the Board each year in open session at a regularly called Board meeting.

iv. **Salary Payments.** The Associate Superintendent's salary shall be payable once every month not later than the last day of each month less all applicable taxes and other deductions required by law or authorized by the Associate Superintendent.

v. **Salary Changes.** During the term of this Agreement, the Board reserves the right to increase from time-to-time the salary payable to the Associate Superintendent to be effective prospectively or retroactively on any date ordered by the Board in accordance with Education Code section 35032. A change in salary shall not constitute the creation of a new contract nor extend the termination date of this Agreement.

b. **Vacation.** The Associate Superintendent shall, during the term of this Agreement, earn and accrue 1.92 days of vacation leave with pay for each full month of service rendered (the equivalent of 23 days per year). Utilization of accrued vacation leave shall be subject to approval by the Superintendent. The Associate Superintendent shall not accrue more than 46 days of vacation. If earned and accumulated vacation days reach a total of 46, further accrual of vacation will cease until accumulated vacation is used and at that time vacation accrual commences. In the event of the termination or expiration of this Agreement for any reason, the Associate Superintendent shall be entitled to compensation for no more than 46 days of accrued and unused vacation leave at Associate Superintendent's then current daily rate of salary.

c. **Sick Leave.** The Associate Superintendent shall, during the term of this Agreement, earn and accrue one (1) day of sick leave with pay for each full month of service rendered. Time off required by the Associate Superintendent for illness or injury which is not covered by earned and accrued sick leave with pay, earned and accrued vacation with pay or other paid leaves as provided for by law, shall be uncompensated. The District shall be authorized to require verification of sick leave and vacation usage from time-to-time, as it deems appropriate.

d. **Fringe Benefits.** The Associate Superintendent shall be entitled to employee and dependent health care coverage under the same group medical, dental, optical, and other group health insurance plans which are provided to certificated employees covered by the EGEA collective bargaining agreement on the same terms and conditions, and subject to the same co-pays, deductibles and premium payment requirements as such benefits are provided to EGEA covered employees, as those benefits may change from time-to-time through negotiations with EGEA.

e. **Holidays.** The Associate Superintendent shall be entitled to the same number and types of holidays with pay as are provided to other certificated management personnel.

f. **Transportation Allowance.** The Associate Superintendent shall acquire, use, maintain and insure a personal automobile for school district business at the Associate Superintendent's sole cost and expense. The Associate Superintendent shall receive a monthly automobile mileage allowance of \$400 for travel within the District's boundaries, irrespective of the number of miles traveled on District business. The allowance shall be considered taxable income. No documentation is required in order to receive this allowance. Except in an emergency, the Associate Superintendent shall not utilize vehicle, fuel, or repair services provided by the District. In addition, the Associate Superintendent shall be solely responsible for any tax and retirement consequences resulting from receipt of this allowance and shall defend, indemnify and hold the District harmless from all such consequences.

g. **Business Expense Allowance.** Associate Superintendent shall receive \$400 per month for business expenses that the Associate Superintendent incurs in the official performance of Associate Superintendent's duties and responsibilities. The allowance shall be considered taxable income. No documentation is required in order to receive this allowance. The Associate Superintendent shall be solely responsible for any tax or retirement consequences resulting from receipt of this allowance and shall defend, indemnify and hold the District harmless from all such consequences.

h. **Conference Expenses.** During the term of this Agreement, the Associate Superintendent shall attend educational or other conferences that the Superintendent deems appropriate. The actual and necessary travel, food, lodging, incidental expenses, and registration costs for events held outside of the District shall be reimbursable, subject to all verification and claims procedures and reimbursable expenditure limitations as are from time-to-time established by Board policy or administrative regulation.

i. **Expense Reimbursement.** The District shall reimburse the Associate Superintendent for actual and necessary expenses incurred within the scope of the Associate Superintendent's employment, including mileage reimbursement for travel outside of the District, so long as such expenses are permitted by District policy or incurred with prior approval of the Board and so long as the cost of the expense is not already provided for under the terms of this Agreement. For reimbursement, the Superintendent shall submit an expense claim in writing supported by appropriate written documentation.

5. **Physical Examination.** The Associate Superintendent agrees to have an examination by a District-appointed physician when requested by the Superintendent. Any expense beyond that paid by District insurance will be borne by the District. The physician's report of the Associate Superintendent's examination shall be filed with the Superintendent and shall be treated as confidential information. The examining physician's report shall address the fitness of the Associate Superintendent to perform his/her duties. The Associate Superintendent agrees to execute any necessary medical releases or other documents to facilitate this fitness for duty examination.

6. **Duties.** In accordance with the policies adopted by the Board and rules

and regulations of the Board of Education, the Associate Superintendent shall perform such duties and assume such responsibilities as are contained in the Associate Superintendent's job description or as assigned by the Superintendent. Specifically, Associate Superintendent shall have primary responsibility for the Finance and School Support program.

7. **Management Hours.** It is understood that the demands of Associate Superintendent's position will require Associate Superintendent to average more than an eight-hour workday or a forty-hour workweek; therefore, the parties agree that Associate Superintendent shall not be entitled to overtime compensation.

8. **Outside Professional Activities.** The Associate Superintendent shall be authorized to undertake outside professional activities for compensation including consulting, speaking, and writing, provided that Associate Superintendent shall devote so much of Associate Superintendent's time and energy to the performance of the duties of the position as are required to adequately perform the duties and responsibilities of the position. The Associate Superintendent's performance of the duties and responsibilities shall take precedence over any outside activities, and the Superintendent may disapprove time-off by the Associate Superintendent during the normal workweek to engage in such outside activity. The Associate Superintendent agrees not to use District property or staff in performing outside professional activities without prior approval of the Superintendent. In no case will the District be responsible for any expenses attendant to the performance of such outside activities unless prior approval is obtained.

9. **Contract Extension.** If the Associate Superintendent receives a satisfactory evaluation as set forth below, the term of Associate Superintendent's Agreement shall be extended by one additional year (e.g., if Associate Superintendent receives a satisfactory evaluation for the 2012-2013 school year, the term of this Agreement shall be extended from June 30, 2015 to June 30, 2016.)

10. **Evaluation.** The Superintendent shall annually evaluate the Associate Superintendent's performance by June 30 of each year. At the conclusion of the evaluation for the school year, the Superintendent shall designate in writing on the Associate Superintendent's evaluation form whether or not the evaluation is "satisfactory" or "unsatisfactory."

If the Superintendent determines that the Associate Superintendent's evaluation is "satisfactory," and the Board concurs, the Associate Superintendent shall be entitled to: (1) a salary step increase as provided in section 2 until Associate Superintendent reaches the end of the salary schedule steps; (2) a COLA increase as provided in section 2; and (3) a one year contract extension.

If the Superintendent determines that the Associate Superintendent's evaluation is "unsatisfactory," the Associate Superintendent's salary and contract term shall remain unchanged.

If the Superintendent does not complete the evaluation by June 30 of any year under this Agreement, the Superintendent shall take prompt immediate action to

complete the evaluation. If the evaluation is completed after June 30, it is satisfactory, and the Board concurs, the Associate Superintendent shall be entitled to retroactive application of the salary step increase, the COLA, if any, and the one year contract extension.

Any evaluation conducted under this paragraph must be ratified by the Board and reported in open session. In addition, any contract extension, salary step increase or COLA increase must be approved by the Board in open session at a regular meeting so that the public remains informed about the Associate Superintendent's current step placement and the contract term.

11. **Termination.** This Agreement may be terminated on any of the following bases:

a. **Mutual Consent.** By mutual agreement, this Agreement may be terminated at any time.

b. **Resignation.** The Associate Superintendent may resign and terminate this Agreement only by providing the Board with at least sixty (60) days advance written notice, unless the parties agree otherwise.

c. **Non-Renewal of Agreement by the District.** The Board may elect not to renew this Agreement upon its expiration by providing written notice to the Associate Superintendent in accordance with Education Code section 35031 (currently 45-days prior notice), or other applicable provisions of law. The Associate Superintendent shall inform the Board President of this notice requirement at least ninety (90) days in advance of expiration of this Agreement.

d. **Termination for Cause.** The Board may terminate the Associate Superintendent as follows: (1) if the Associate Superintendent refuses or fails to follow a lawful directive or order of the Board or the Superintendent; (2) breach of this Agreement; (3) unsatisfactory performance as established through the evaluation process; (4) misconduct or dishonest behavior with regard to the Associate Superintendent's employment; or (5) conviction of a crime involving: dishonesty, breach of trust, or physical or emotional harm to any person. The existence of such cause shall constitute a material breach of this Agreement and shall extinguish all rights and duties of the parties under this Agreement.

If such cause exists, the Superintendent shall meet with the Associate Superintendent and shall submit a written statement to the Board and the Associate Superintendent of the grounds for termination and copies of written documents the District believes supports the termination. If the Associate Superintendent disputes the charges, the Associate Superintendent shall then be entitled to a conference before the Board in closed session. The Associate Superintendent and the Board shall each have the right to be represented by counsel at their own expense. The Associate Superintendent shall have a reasonable opportunity to respond to all matters raised in the charges. The conference with the Board shall not be an evidentiary hearing and neither party shall have the opportunity to call witnesses. If the Board, after considering all evidence presented, decides to terminate this Agreement, it shall provide the

Associate Superintendent with a written decision.

The decision of the Board shall be final. The Associate Superintendent's conference before the Board shall be deemed to satisfy the Associate Superintendent's entitlement to due process of law and shall be the Associate Superintendent's exclusive right to any conference or hearing otherwise required by law. The Associate Superintendent waives any other rights that may be applicable to this termination for cause proceeding with the understanding that completion of this hearing exhausts the Associate Superintendent's administrative remedies and then authorizes the Associate Superintendent to contest the Board's determination in a court of competent jurisdiction.

e. **Termination without Cause.** If, for any reason, without cause or a hearing, at any time, the Board determines, in its sole discretion, that such action is in the best interest of the District, the Board may unilaterally terminate this Agreement. In consideration for the exercise of this right, the District shall pay to the Associate Superintendent from the date of termination until the expiration of this Agreement, or for a period of eighteen (18) months, whichever is less, a sum equal to the difference between Associate Superintendent's base salary at the rate in effect during the Associate Superintendent's last month of service and the amount which the Associate Superintendent earns from any other employment-related source (whether as employee, independent contractor, consultant or self-employed).

Payments to the Associate Superintendent shall be made on a monthly basis unless the parties agree in writing otherwise. As a condition of receiving such monthly payments, the Associate Superintendent shall be obligated to immediately seek other full-time employment in good faith and to notify the District in writing immediately if Associate Superintendent earns income from any employment-related source.

For purposes of this Agreement, the term "salary" shall include only the Associate Superintendent's regular monthly base salary and shall not include the value of any other stipends, reimbursements or benefits received under this Agreement. All payments made pursuant to this termination without cause provision shall be subject to applicable payroll deductions and shall be treated as compensation for state and federal tax purposes. No payments made pursuant to this early termination provision shall constitute creditable service, creditable compensation or compensation earnable for CalSTRS or CalPERS retirement purposes. Payments made pursuant to this termination without cause provision shall be considered as final settlement pay; accordingly, no deductions shall be made for retirement purposes.

The Associate Superintendent shall also be entitled to a continued District contribution toward health benefits, as those benefits may change from time-to-time, for the remainder of the unexpired term of this Agreement, for a period of eighteen (18) months, or until the Associate Superintendent obtains other employment, whichever occurs first.

If the Associate Superintendent is terminated without cause and elects to retire instead of fulfilling the Associate Superintendent's obligation to seek other

employment as set forth above, the parties agree that, effective upon the date of the Associate Superintendent's retirement with the CalSTRS or CalPERS, the amount payable to the Associate Superintendent as salary shall be reduced by the amount of retirement income earned by the Associate Superintendent from CalSTRS or CalPERS.

The parties agree that any damages to the Associate Superintendent that may result from the Board's early termination of this Agreement without cause cannot be readily ascertained. Accordingly, the parties agree that the payments made pursuant to this termination without cause provision, along with the District's agreement to provide health benefits, constitutes reasonable liquidated damages for the Associate Superintendent, fully compensates the Associate Superintendent for all tort, contract, and other damages of any nature whatsoever, whether in law or equity, and does not result in a penalty. The parties agree that the District's completion of its obligations under this provision constitutes the Associate Superintendent's sole remedy to the fullest extent provided by law.

Finally, the parties agree that this provision meets the requirements governing maximum cash settlements as set forth in Government Code section 53260 et seq. and that any payment of cash or other consideration to the Associate Superintendent pursuant to a settlement agreement resulting from the termination of this Agreement by the Board is subject to the limitations and requirements contained in Government Code sections 53260 et seq. and other applicable provisions of law, as the law may be amended from time-to-time.

f. **Termination for Inappropriate Fiscal Practices.**

Notwithstanding any other provision of this Agreement to the contrary, if the Board believes, and subsequently confirms through an independent audit, that the Associate Superintendent has engaged in fraud, misappropriation of funds, or other illegal fiscal practices, then the Board may terminate the Associate Superintendent without cause and the Associate Superintendent shall not be entitled to any cash, salary payments, health benefits or other non-cash settlement as set forth above. This provision is intended to implement the requirements of Government Code section 53260(b).

g. **Disability.** Upon expiration of the Associate Superintendent's entitlement to current and accumulated sick leave and differential leave, and upon written evaluation by a licensed physician designated by the District indicating the inability of the Associate Superintendent to perform the essential functions of the position, with or without reasonable accommodation, this Agreement may be immediately terminated by the Board upon written notice to the Associate Superintendent.

h. **Death.** Death of the Associate Superintendent immediately terminates this Agreement.

12. **Abuse of Office Provisions.** In accordance with Government Code section 53243 et seq., and as a separate contractual obligation, should the Associate Superintendent receive a paid leave of absence or cash settlement if this contract is terminated with or without cause, such paid leave or cash settlement shall be fully reimbursed to the District by the Associate Superintendent if the Associate

Superintendent is convicted of a crime involving an abuse of his/her office or position. In addition, if the District funds the criminal defense of the Associate Superintendent against charges involving abuse of office or position and the Associate Superintendent is then convicted of such charges, the Associate Superintendent shall fully reimburse the District all funds expended for his/her criminal defense.

13. **Notice.** Notices by the Board of Education shall be deemed served either on the date on which it is personally served upon the Associate Superintendent or the date on which it is deposited in the United States Mail, postage prepaid, and addressed as follows:

Rich Fagan, Associate Superintendent
Elk Grove Unified School District
9510 Elk Grove-Florin Road
Elk Grove, California 95624

14. **Notice of Finalist in Search.** The Associate Superintendent shall immediately notify the Superintendent should he/she become a finalist in the selection process for any position with any other employer.

15. **Waiver.** No waiver of any breach of any term or provision of this Agreement shall be construed to be, nor shall it be, a waiver of any other breach of this Agreement. No waiver shall be binding unless in writing and signed by the party waiving the breach.

16. **Complete Agreement.** This Agreement constitutes and contains the entire agreement and understanding between the parties concerning the Associate Superintendent's employment with the District. This instrument supersedes and replaces all prior agreements, modifications and addendums and all prior proposals and negotiations, whether written or oral, concerning the Associate Superintendent's employment with the District. This is an integrated document.

17. **Governing Law.** This Agreement shall be deemed to have been executed and delivered within the State of California, and rights and obligations of the parties hereunder shall be construed and enforced in accordance with, and governed by, the laws of the State of California without regard to principles of conflict of laws.

18. **Construction.** Each party has cooperated in the drafting and preparation of this Agreement. Hence, in any construction to be made of this Agreement, the same shall not be construed against any party on the basis that the party was the drafter. The captions of this Agreement are not part of the provisions hereof and shall have no force or effect.

19. **Execution.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Photographic copies of such signed counterparts may be used in lieu of the originals for any purpose.

20. **No Assignment.** The Associate Superintendent may not assign or transfer any rights granted or obligations assumed under this Agreement.

21. **Modification.** This Agreement cannot be changed or supplemented orally. It may be modified or superseded only by a written instrument executed by both parties.

22. **Exclusivity.** To the extent permitted by law, the parties agree that the employment relationship between the District and the Associate Superintendent shall be governed exclusively by the provisions of this Agreement.

23. **Independent Representation.** The Associate Superintendent and the Board each recognize that in entering into this Agreement, the parties have relied upon the advice of their own attorneys, financial advisors and other representatives, and that the terms of this Agreement have been completely read and explained to them by their attorneys, financial advisors and other representatives and that those terms are fully understood and voluntarily accepted by them.

24. **Savings Clause.** If any provision of this Agreement or its application is held invalid, the invalidity shall not affect the other provisions or applications of the Agreement that can be given effect without the invalid provisions or applications and the provisions of this Agreement are declared to be severable.

25. **Board Approval.** The effectiveness of this Agreement shall be contingent upon approval by the District's Board as required by law.

26. **Binding Effect.** This Agreement shall be for the benefit of and shall be binding upon all parties and their respective successors, heirs, and assigns.

27. **Public Record.** The parties recognize that, once final, this Agreement is a public record and must be made available to the public upon request.

28. **Credentials.** The Associate Superintendent hereby certifies that the Associate Superintendent holds legal and valid administrative and teaching credentials which he/she shall maintain in effect throughout the life of this Agreement, and shall keep on file in the Office of the County Superintendent of Schools of Sacramento County.

29. **Tax/Retirement Liability.** District makes no representations or warranties with respect to the tax or retirement consequences of this Agreement. Notwithstanding any other provision of this Agreement, the District shall not be liable for any state or federal tax consequences or any retirement consequences of any nature as a result of this Agreement including, but not limited to, retiree health benefits, life insurance or other benefits provided to the Associate Superintendent or any designated beneficiary, heirs, administrators, executors, successors or assigns of the Associate Superintendent. The Associate Superintendent shall assume sole liability for all state and federal tax consequences and all retirement consequences of any nature occurring at any time. Associate Superintendent further declares that, prior to signing this Agreement, the Associate Superintendent was apprised of relevant data and received independent advice

and counsel regarding the state and federal tax consequences and the retirement consequences of this Agreement.

30. **Execution of Other Documents.** The parties shall cooperate fully in the execution of any other documents and in the completion of any other acts that may be necessary or appropriate to give full force and effect to this Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement the day, month and year first above written.

BOARD OF EDUCATION
ELK GROVE UNIFIED SCHOOL DISTRICT

By: _____
Chet Madison
Board President

Dated: June ____, 2012

ACCEPTANCE OF OFFER

I accept the above offer of employment and the terms and conditions thereof and will report for duty as directed above.

I have not entered into an Agreement of employment with the Governing Board of another school district or any other employer that will in any way conflict with the terms of this employment agreement.

I understand that the District is relying upon information provided by me during the application process in extending this offer of employment. By signing below, I represent that I have not provided the District with any false information or made any material misrepresentation during the job application process. I agree that false, incomplete, or misleading statements or omissions made during the job application process constitute dishonesty and breach of this Agreement and are grounds for termination of this Agreement for cause.

DATED: June ____, 2012

Rich Fagan, Associate Superintendent

**ELK GROVE UNIFIED SCHOOL DISTRICT
EMPLOYMENT AGREEMENT
ASSOCIATE SUPERINTENDENT**

This Employment Agreement ("Agreement") is made and entered into by and between the Elk Grove Unified School District ("District" or "Board") and Mark Cerutti ("Associate Superintendent").

RECITALS

The parties agree as follows:

1. **Employment.** The District hereby hires and employs the Associate Superintendent to act and serve as its Associate Superintendent of Education Services and Associate Superintendent hereby accepts such employment and agrees to satisfactorily perform the duties of the position during the term of this Agreement.

2. **Term.** The term of this Agreement is from July 1, 2012 until June 30, 2015 unless terminated earlier or extended as provided by the terms of this Agreement or as required by law.

3. **Work Year.** Associate Superintendent's work year shall be 246 days.

4. **Compensation.** For and in consideration of the services rendered by Associate Superintendent, Associate Superintendent shall receive the following compensation:

a. **Salary.**

i. **Salary.** For the 2012-2013 school year, the Associate Superintendent shall be placed on step 2 of the Associate Superintendent's salary schedule. Step 2 of the Associate Superintendent's salary schedule is One Hundred Fifty-Nine Thousand and Forty-Three Dollars (\$159,043). No lottery stipend shall be paid to the Associate Superintendent.

ii. **Cost of Living Adjustment ("COLA").** During the term of this Agreement, on an annual basis, Associate Superintendent shall receive the same COLA, if any, provided to the District's certificated managers. The COLA shall be paid to the Associate Superintendent, prospectively or retroactively, in the same manner as provided to other District certificated managers. Cost of living increases, however, shall only be granted if the Associate Superintendent receives a satisfactory evaluation from the Superintendent and the Board concurs. All COLA increases shall be approved by the Board each year in open session at a regularly called Board meeting.

iii. **Step Increases.** Subject to Associate Superintendent's receipt of a satisfactory annual evaluation, the Associate Superintendent shall receive an annual step increase of 3.5%, effective on July 1, in addition to the COLA and any other Board approved salary adjustment, if Associate Superintendent is eligible for a step

increase. Step increases are limited to a maximum of five (5). Step increases must be approved by the Board each year in open session at a regularly called Board meeting.

iv. **Salary Payments.** The Associate Superintendent's salary shall be payable once every month not later than the last day of each month less all applicable taxes and other deductions required by law or authorized by the Associate Superintendent.

v. **Salary Changes.** During the term of this Agreement, the Board reserves the right to increase from time-to-time the salary payable to the Associate Superintendent to be effective prospectively or retroactively on any date ordered by the Board in accordance with Education Code section 35032. A change in salary shall not constitute the creation of a new contract nor extend the termination date of this Agreement.

b. **Vacation.** The Associate Superintendent shall, during the term of this Agreement, earn and accrue 1.92 days of vacation leave with pay for each full month of service rendered (the equivalent of 23 days per year). Utilization of accrued vacation leave shall be subject to approval by the Superintendent. The Associate Superintendent shall not accrue more than 46 days of vacation. If earned and accumulated vacation days reach a total of 46, further accrual of vacation will cease until accumulated vacation is used and at that time vacation accrual commences. In the event of the termination or expiration of this Agreement for any reason, the Associate Superintendent shall be entitled to compensation for no more than 46 days of accrued and unused vacation leave at Associate Superintendent's then current daily rate of salary.

c. **Sick Leave.** The Associate Superintendent shall, during the term of this Agreement, earn and accrue one (1) day of sick leave with pay for each full month of service rendered. Time off required by the Associate Superintendent for illness or injury which is not covered by earned and accrued sick leave with pay, earned and accrued vacation with pay or other paid leaves as provided for by law, shall be uncompensated. The District shall be authorized to require verification of sick leave and vacation usage from time-to-time, as it deems appropriate.

d. **Fringe Benefits.** The Associate Superintendent shall be entitled to employee and dependent health care coverage under the same group medical, dental, optical, and other group health insurance plans which are provided to certificated employees covered by the EGEA collective bargaining agreement on the same terms and conditions, and subject to the same co-pays, deductibles and premium payment requirements as such benefits are provided to EGEA covered employees, as those benefits may change from time-to-time through negotiations with EGEA.

e. **Holidays.** The Associate Superintendent shall be entitled to the same number and types of holidays with pay as are provided to other certificated management personnel.

f. **Transportation Allowance.** The Associate Superintendent shall acquire, use, maintain and insure a personal automobile for school district business at the Associate Superintendent's sole cost and expense. The Associate Superintendent shall receive a monthly automobile mileage allowance of \$400 for travel within the District's boundaries, irrespective of the number of miles traveled on District business. The allowance shall be considered taxable income. No documentation is required in order to receive this allowance. Except in an emergency, the Associate Superintendent shall not utilize vehicle, fuel, or repair services provided by the District. In addition, the Associate Superintendent shall be solely responsible for any tax and retirement consequences resulting from receipt of this allowance and shall defend, indemnify and hold the District harmless from all such consequences.

g. **Business Expense Allowance.** Associate Superintendent shall receive \$400 per month for business expenses that the Associate Superintendent incurs in the official performance of Associate Superintendent's duties and responsibilities. The allowance shall be considered taxable income. No documentation is required in order to receive this allowance. The Associate Superintendent shall be solely responsible for any tax or retirement consequences resulting from receipt of this allowance and shall defend, indemnify and hold the District harmless from all such consequences.

h. **Conference Expenses.** During the term of this Agreement, the Associate Superintendent shall attend educational or other conferences that the Superintendent deems appropriate. The actual and necessary travel, food, lodging, incidental expenses, and registration costs for events held outside of the District shall be reimbursable, subject to all verification and claims procedures and reimbursable expenditure limitations as are from time-to-time established by Board policy or administrative regulation.

i. **Expense Reimbursement.** The District shall reimburse the Associate Superintendent for actual and necessary expenses incurred within the scope of the Associate Superintendent's employment, including mileage reimbursement for travel outside of the District, so long as such expenses are permitted by District policy or incurred with prior approval of the Board and so long as the cost of the expense is not already provided for under the terms of this Agreement. For reimbursement, the Superintendent shall submit an expense claim in writing supported by appropriate written documentation.

5. **Physical Examination.** The Associate Superintendent agrees to have an examination by a District-appointed physician when requested by the Superintendent. Any expense beyond that paid by District insurance will be borne by the District. The physician's report of the Associate Superintendent's examination shall be filed with the Superintendent and shall be treated as confidential information. The examining physician's report shall address the fitness of the Associate Superintendent to perform his/her duties. The Associate Superintendent agrees to execute any necessary medical releases or other documents to facilitate this fitness for duty examination.

6. **Duties.** In accordance with the policies adopted by the Board and rules

and regulations of the Board of Education, the Associate Superintendent shall perform such duties and assume such responsibilities as are contained in the Associate Superintendent's job description or as assigned by the Superintendent. Specifically, Associate Superintendent shall have primary responsibility for the District's Education Services program.

7. **Management Hours.** It is understood that the demands of Associate Superintendent's position will require Associate Superintendent to average more than an eight-hour workday or a forty-hour workweek; therefore, the parties agree that Associate Superintendent shall not be entitled to overtime compensation.

8. **Outside Professional Activities.** The Associate Superintendent shall be authorized to undertake outside professional activities for compensation including consulting, speaking, and writing, provided that Associate Superintendent shall devote so much of Associate Superintendent's time and energy to the performance of the duties of the position as are required to adequately perform the duties and responsibilities of the position. The Associate Superintendent's performance of the duties and responsibilities shall take precedence over any outside activities, and the Superintendent may disapprove time-off by the Associate Superintendent during the normal workweek to engage in such outside activity. The Associate Superintendent agrees not to use District property or staff in performing outside professional activities without prior approval of the Superintendent. In no case will the District be responsible for any expenses attendant to the performance of such outside activities unless prior approval is obtained.

9. **Contract Extension.** If the Associate Superintendent receives a satisfactory evaluation as set forth below, the term of Associate Superintendent's Agreement shall be extended by one additional year (e.g., if Associate Superintendent receives a satisfactory evaluation for the 2012-2013 school year, the term of this Agreement shall be extended from June 30, 2015 to June 30, 2016.)

10. **Evaluation.** The Superintendent shall annually evaluate the Associate Superintendent's performance by June 30 of each year. At the conclusion of the evaluation for the school year, the Superintendent shall designate in writing on the Associate Superintendent's evaluation form whether or not the evaluation is "satisfactory" or "unsatisfactory."

If the Superintendent determines that the Associate Superintendent's evaluation is "satisfactory," and the Board concurs, the Associate Superintendent shall be entitled to: (1) a salary step increase as provided in section 2 until Associate Superintendent reaches the end of the salary schedule steps; (2) a COLA increase as provided in section 2; and (3) a one year contract extension.

If the Superintendent determines that the Associate Superintendent's evaluation is "unsatisfactory," the Associate Superintendent's salary and contract term shall remain unchanged.

If the Superintendent does not complete the evaluation by June 30 of any year under this Agreement, the Superintendent shall take prompt immediate action to

complete the evaluation. If the evaluation is completed after June 30, it is satisfactory, and the Board concurs, the Associate Superintendent shall be entitled to retroactive application of the salary step increase, the COLA, if any, and the one year contract extension.

Any evaluation conducted under this paragraph must be ratified by the Board and reported in open session. In addition, any contract extension, salary step increase or COLA increase must be approved by the Board in open session at a regular meeting so that the public remains informed about the Associate Superintendent's current step placement and the contract term.

11. **Termination.** This Agreement may be terminated on any of the following bases:

a. **Mutual Consent.** By mutual agreement, this Agreement may be terminated at any time.

b. **Resignation.** The Associate Superintendent may resign and terminate this Agreement only by providing the Board with at least sixty (60) days advance written notice, unless the parties agree otherwise.

c. **Non-Renewal of Agreement by the District.** The Board may elect not to renew this Agreement upon its expiration by providing written notice to the Associate Superintendent in accordance with Education Code section 35031 (currently 45-days prior notice), or other applicable provisions of law. The Associate Superintendent shall inform the Board President of this notice requirement at least ninety (90) days in advance of expiration of this Agreement.

d. **Termination for Cause.** The Board may terminate the Associate Superintendent as follows: (1) if the Associate Superintendent refuses or fails to follow a lawful directive or order of the Board or the Superintendent; (2) breach of this Agreement; (3) unsatisfactory performance as established through the evaluation process; (4) misconduct or dishonest behavior with regard to the Associate Superintendent's employment; or (5) conviction of a crime involving: dishonesty, breach of trust, or physical or emotional harm to any person. The existence of such cause shall constitute a material breach of this Agreement and shall extinguish all rights and duties of the parties under this Agreement.

If such cause exists, the Superintendent shall meet with the Associate Superintendent and shall submit a written statement to the Board and the Associate Superintendent of the grounds for termination and copies of written documents the District believes supports the termination. If the Associate Superintendent disputes the charges, the Associate Superintendent shall then be entitled to a conference before the Board in closed session. The Associate Superintendent and the Board shall each have the right to be represented by counsel at their own expense. The Associate Superintendent shall have a reasonable opportunity to respond to all matters raised in the charges. The conference with the Board shall not be an evidentiary hearing and neither party shall have the opportunity to call witnesses. If the Board, after considering all evidence presented, decides to terminate this Agreement, it shall provide the

Associate Superintendent with a written decision.

The decision of the Board shall be final. The Associate Superintendent's conference before the Board shall be deemed to satisfy the Associate Superintendent's entitlement to due process of law and shall be the Associate Superintendent's exclusive right to any conference or hearing otherwise required by law. The Associate Superintendent waives any other rights that may be applicable to this termination for cause proceeding with the understanding that completion of this hearing exhausts the Associate Superintendent's administrative remedies and then authorizes the Associate Superintendent to contest the Board's determination in a court of competent jurisdiction.

e. **Termination without Cause.** If, for any reason, without cause or a hearing, at any time, the Board determines, in its sole discretion, that such action is in the best interest of the District, the Board may unilaterally terminate this Agreement. In consideration for the exercise of this right, the District shall pay to the Associate Superintendent from the date of termination until the expiration of this Agreement, or for a period of eighteen (18) months, whichever is less, a sum equal to the difference between Associate Superintendent's base salary at the rate in effect during the Associate Superintendent's last month of service and the amount which the Associate Superintendent earns from any other employment-related source (whether as employee, independent contractor, consultant or self-employed).

Payments to the Associate Superintendent shall be made on a monthly basis unless the parties agree in writing otherwise. As a condition of receiving such monthly payments, the Associate Superintendent shall be obligated to immediately seek other full-time employment in good faith and to notify the District in writing immediately if Associate Superintendent earns income from any employment-related source.

For purposes of this Agreement, the term "salary" shall include only the Associate Superintendent's regular monthly base salary and shall not include the value of any other stipends, reimbursements or benefits received under this Agreement. All payments made pursuant to this termination without cause provision shall be subject to applicable payroll deductions and shall be treated as compensation for state and federal tax purposes. No payments made pursuant to this early termination provision shall constitute creditable service, creditable compensation or compensation earnable for CalSTRS or CalPERS retirement purposes. Payments made pursuant to this termination without cause provision shall be considered as final settlement pay; accordingly, no deductions shall be made for retirement purposes.

The Associate Superintendent shall also be entitled to a continued District contribution toward health benefits, as those benefits may change from time-to-time, for the remainder of the unexpired term of this Agreement, for a period of eighteen (18) months, or until the Associate Superintendent obtains other employment, whichever occurs first.

If the Associate Superintendent is terminated without cause and elects to retire instead of fulfilling the Associate Superintendent's obligation to seek other

employment as set forth above, the parties agree that, effective upon the date of the Associate Superintendent's retirement with the CalSTRS or CalPERS, the amount payable to the Associate Superintendent as salary shall be reduced by the amount of retirement income earned by the Associate Superintendent from CalSTRS or CalPERS.

The parties agree that any damages to the Associate Superintendent that may result from the Board's early termination of this Agreement without cause cannot be readily ascertained. Accordingly, the parties agree that the payments made pursuant to this termination without cause provision, along with the District's agreement to provide health benefits, constitutes reasonable liquidated damages for the Associate Superintendent, fully compensates the Associate Superintendent for all tort, contract, and other damages of any nature whatsoever, whether in law or equity, and does not result in a penalty. The parties agree that the District's completion of its obligations under this provision constitutes the Associate Superintendent's sole remedy to the fullest extent provided by law.

Finally, the parties agree that this provision meets the requirements governing maximum cash settlements as set forth in Government Code section 53260 et seq. and that any payment of cash or other consideration to the Associate Superintendent pursuant to a settlement agreement resulting from the termination of this Agreement by the Board is subject to the limitations and requirements contained in Government Code sections 53260 et seq. and other applicable provisions of law, as the law may be amended from time-to-time.

f. **Termination for Inappropriate Fiscal Practices.**

Notwithstanding any other provision of this Agreement to the contrary, if the Board believes, and subsequently confirms through an independent audit, that the Associate Superintendent has engaged in fraud, misappropriation of funds, or other illegal fiscal practices, then the Board may terminate the Associate Superintendent without cause and the Associate Superintendent shall not be entitled to any cash, salary payments, health benefits or other non-cash settlement as set forth above. This provision is intended to implement the requirements of Government Code section 53260(b).

g. **Disability.** Upon expiration of the Associate Superintendent's entitlement to current and accumulated sick leave and differential leave, and upon written evaluation by a licensed physician designated by the District indicating the inability of the Associate Superintendent to perform the essential functions of the position, with or without reasonable accommodation, this Agreement may be immediately terminated by the Board upon written notice to the Associate Superintendent.

h. **Death.** Death of the Associate Superintendent immediately terminates this Agreement.

12. **Abuse of Office Provisions.** In accordance with Government Code section 53243 et seq., and as a separate contractual obligation, should the Associate Superintendent receive a paid leave of absence or cash settlement if this contract is terminated with or without cause, such paid leave or cash settlement shall be fully reimbursed to the District by the Associate Superintendent if the Associate

Superintendent is convicted of a crime involving an abuse of his/her office or position. In addition, if the District funds the criminal defense of the Associate Superintendent against charges involving abuse of office or position and the Associate Superintendent is then convicted of such charges, the Associate Superintendent shall fully reimburse the District all funds expended for his/her criminal defense.

13. **Notice.** Notices by the Board of Education shall be deemed served either on the date on which it is personally served upon the Associate Superintendent or the date on which it is deposited in the United States Mail, postage prepaid, and addressed as follows:

Mark Cerutti, Associate Superintendent
Elk Grove Unified School District
9510 Elk Grove-Florin Road
Elk Grove, California 95624

14. **Notice of Finalist in Search.** The Associate Superintendent shall immediately notify the Superintendent should he/she become a finalist in the selection process for any position with any other employer.

15. **Waiver.** No waiver of any breach of any term or provision of this Agreement shall be construed to be, nor shall it be, a waiver of any other breach of this Agreement. No waiver shall be binding unless in writing and signed by the party waiving the breach.

16. **Complete Agreement.** This Agreement constitutes and contains the entire agreement and understanding between the parties concerning the Associate Superintendent's employment with the District. This instrument supersedes and replaces all prior agreements, modifications and addendums and all prior proposals and negotiations, whether written or oral, concerning the Associate Superintendent's employment with the District. This is an integrated document.

17. **Governing Law.** This Agreement shall be deemed to have been executed and delivered within the State of California, and rights and obligations of the parties hereunder shall be construed and enforced in accordance with, and governed by, the laws of the State of California without regard to principles of conflict of laws.

18. **Construction.** Each party has cooperated in the drafting and preparation of this Agreement. Hence, in any construction to be made of this Agreement, the same shall not be construed against any party on the basis that the party was the drafter. The captions of this Agreement are not part of the provisions hereof and shall have no force or effect.

19. **Execution.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Photographic copies of such signed counterparts may be used in lieu of the originals for any purpose.

20. **No Assignment.** The Associate Superintendent may not assign or transfer any rights granted or obligations assumed under this Agreement.

21. **Modification.** This Agreement cannot be changed or supplemented orally. It may be modified or superseded only by a written instrument executed by both parties.

22. **Exclusivity.** To the extent permitted by law, the parties agree that the employment relationship between the District and the Associate Superintendent shall be governed exclusively by the provisions of this Agreement.

23. **Independent Representation.** The Associate Superintendent and the Board each recognize that in entering into this Agreement, the parties have relied upon the advice of their own attorneys, financial advisors and other representatives, and that the terms of this Agreement have been completely read and explained to them by their attorneys, financial advisors and other representatives and that those terms are fully understood and voluntarily accepted by them.

24. **Savings Clause.** If any provision of this Agreement or its application is held invalid, the invalidity shall not affect the other provisions or applications of the Agreement that can be given effect without the invalid provisions or applications and the provisions of this Agreement are declared to be severable.

25. **Board Approval.** The effectiveness of this Agreement shall be contingent upon approval by the District's Board as required by law.

26. **Binding Effect.** This Agreement shall be for the benefit of and shall be binding upon all parties and their respective successors, heirs, and assigns.

27. **Public Record.** The parties recognize that, once final, this Agreement is a public record and must be made available to the public upon request.

28. **Credentials.** The Associate Superintendent hereby certifies that the Associate Superintendent holds legal and valid administrative and teaching credentials which he/she shall maintain in effect throughout the life of this Agreement, and shall keep on file in the Office of the County Superintendent of Schools of Sacramento County.

29. **Tax/Retirement Liability.** District makes no representations or warranties with respect to the tax or retirement consequences of this Agreement. Notwithstanding any other provision of this Agreement, the District shall not be liable for any state or federal tax consequences or any retirement consequences of any nature as a result of this Agreement including, but not limited to, retiree health benefits, life insurance or other benefits provided to the Associate Superintendent or any designated beneficiary, heirs, administrators, executors, successors or assigns of the Associate Superintendent. The Associate Superintendent shall assume sole liability for all state and federal tax consequences and all retirement consequences of any nature occurring at any time. Associate Superintendent further declares that, prior to signing this Agreement, the Associate Superintendent was apprised of relevant data and received independent advice

and counsel regarding the state and federal tax consequences and the retirement consequences of this Agreement.

30. **Execution of Other Documents.** The parties shall cooperate fully in the execution of any other documents and in the completion of any other acts that may be necessary or appropriate to give full force and effect to this Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement the day, month and year first above written.

BOARD OF EDUCATION
ELK GROVE UNIFIED SCHOOL DISTRICT

By: _____
Chet Madison
Board President

Dated: June __, 2012

ACCEPTANCE OF OFFER

I accept the above offer of employment and the terms and conditions thereof and will report for duty as directed above.

I have not entered into an Agreement of employment with the Governing Board of another school district or any other employer that will in any way conflict with the terms of this employment agreement.

I understand that the District is relying upon information provided by me during the application process in extending this offer of employment. By signing below, I represent that I have not provided the District with any false information or made any material misrepresentation during the job application process. I agree that false, incomplete, or misleading statements or omissions made during the job application process constitute dishonesty and breach of this Agreement and are grounds for termination of this Agreement for cause.

DATED: June ____, 2012

Mark Cerutti, Associate Superintendent

ELK GROVE UNIFIED SCHOOL DISTRICT

Agenda Item No: 21

Board Agenda Item

Supplement No:

Meeting Date: June 19, 2012

Subject: Codification of Superintendent's
Employer Paid 403b Deferral

Department: Superintendent

Action Requested: The Superintendent has previously agreed to defer receipt of his contractual entitlement to 403b contributions (3 years) from the District to assist the District with its financial difficulties. The revised superintendent employment agreement codifies the deferrals and provides for post employment payment of the deferral without interest.

Discussion:

The Administration recommends approval of the proposed Employer Paid 403b Plan. The Plan was prepared by the District's third party administrator, 403b Comply.

Financial Summary:

No costs were incurred for 403b Comply to develop the proposed Employer Paid 403b Plan.

Prepared By: _____

Division Approval: _____

Prepared By: _____

Superintendent Approval: Steven M. Ladd, Ed.D.

Board Agenda Item

Supplement No. _____

Meeting Date June 19, 2012**Subject:****APPROVAL OF PURCHASE ORDER HISTORY.**Department: Finance & School Support**Action Requested:**

The Board of Education is asked to approve purchase orders for the weeks of May 28, 2012 through June 8, 2012.

Discussion:

The Purchase Order History and Cost Modifications for the month of May 28, 2012 through June 8, 2012 are listed below. The purchase orders are on file in the Purchasing Department if you wish to review them.

<u>Fund</u>	<u>Purchase Orders Issued</u>		<u>Purchase Order Modification Costs</u>
01	13	(57 Modifications)	212,634.99
11	5	(1 Modifications)	2,000.00
12	1	(4 Modifications)	(900.00)
13	3	(7 Modifications)	172,012.25



Total Encumbrances **385,747.24**

Financial Summary:**Total Encumbrances**

<u>Fund</u>	<u>Purchase Orders Issued</u>	
01	13	38316.51
11	5	4747.74
12	1	8700.00
13	3	160531.01

(Sub total) 212295.26
Grand Total: **598,042.50**

Prepared By: _____

Division Approval: Rich Fagan Prepared By: Dennis Brown Superintendent Approval: Steven M. Ladd Ed.D. 

ELK GROVE UNIFIED SCHOOL DISTRICT

Agenda Item No: 23

Board Agenda Item

Supplement No.

Meeting Date: 06/19/12

Subject:

Warrant Register No. 11
All Funds: May 1, 2012 – May 31, 2012

Department: Fiscal Services

Action Requested:

Approve Warrant Register No. 11 – Warrant Numbers 930799-932358, 267095-268430.

Discussion:

Education Code 42632 requires that all payments from the funds of a school district shall be made by written order of the governing board of the district.

It is also required that district orders (warrants) must be numbered and include the following per Education Code 42634:

- The particular fund or funds of the district against which it is drawn,
- The amount of payment to be made,
- An itemized bill showing separate items and the price of each item, (This information is retained in Fiscal Services)
- The rate of salary and the period of service of any employee of the district for whom an order is issued for payment of salary or wages. (This information is retained in the Payroll Office)

The Board is asked to approve Warrant Register No.11 – Warrant Numbers 930799-932358, 267095-268430.

See attached report for Warrant Register No. 11 expenditures.

Financial Summary:

Total expenditures for all funds from May 1, 2012 through May 31, 2012, are \$40,023,637.27

Prepared By: Shelley Clark *Shelley Clark*

Division Approval:

Rich Fagan *Rich Fagan*

Prepared By: Carrie Hargis *Carrie Hargis*

Superintendent Approval:

Steven M. Ladd, Ed.D. *SL*

ACCOUNTS PAYABLE WARRANTS

DATE	WARRANT NUMBERS	AMOUNT	1000	2000	3000	4000	5000	6000	7000	8000	9000
5/4/12	930799-931166	520.00						520.00			
5/11/12	931167-931550	87505.19					38538.06	48967.13			
5/25/12	931938-932358	33996.00						33996.00			
TOTALS		122021.19	0.00	0.00	0.00	0.00	38538.06	83483.13	0.00	0.00	0.00

PAYROLL WARRANTS FUND 14

DATE	WARRANT NUMBERS	AMOUNT	1000	2000	3000	4000	5000	6000	7000	8000	9000
TOTALS (CANCELS)		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
GRAND TOTAL		122021.19	0.00	0.00	0.00	0.00	38538.06	83483.13	0.00	0.00	0.00

ELK GROVE UNIFIED SCHOOL DISTRICT

Agenda Item No: 24

Board Agenda Item

Supplement No. _____

Meeting Date June 19, 2012

Subject:

DISPOSAL OF OBSOLETE/SURPLUS PROPERTY.

Department: Finance & School Support

Action Requested:

The Board of Education is asked to authorize the disposal of Obsolete/Surplus Property.

Discussion:


Pursuant to Section 39510 of the Education Code, the Board of Education is asked to authorize Dennis Brown, Director of Purchasing & Warehouse to surplus and/or dispose of these items.


Records of these items are in the Purchasing & Warehouse Department should you need to review them.

Financial Summary:

No source of Income to the District.

Prepared By: _____

Division Approval: Rich Fagan 

Prepared By: Dennis Brown 

Superintendent Approval: Steven M. Ladd Ed.D. 

ELK GROVE UNIFIED SCHOOL DISTRICT

Agenda Item No: 24 a

Board Agenda Item

Supplement No. _____

Meeting Date June 19, 2012

Subject:

DISPOSAL OF OBSOLETE/SURPLUS PROPERTY.

Department: Finance & School Support

Action Requested:

The Board of Education is asked to authorize the disposal of Obsolete/Surplus Property.

Discussion:

Pursuant to Section 39510 of the Education Code, the Board of Education is asked to authorize Dennis Brown, Director of Purchasing & Warehouse to surplus and/or dispose of these items.

All computers have been deemed uneconomical to repair by the Technology Services Department. Per Technology Services, all sensitive data and/or licenses have been removed from hard drives prior to being picked up from the department/site. We have engaged local non-profits in an effort to determine their interest in refurbishing these computers to be redistributed to students of need. To date, we have seen no interest since most usable parts are removed prior to disposal.


Records of these items are in the Purchasing & Warehouse Department should you need to review them.

Financial Summary:

No source of Income to the District.

Prepared By: _____

Division Approval: Rich Fagan 

Prepared By: Dennis Brown 

Superintendent Approval: Steven M. Ladd Ed.D.

ELK GROVE UNIFIED SCHOOL DISTRICT

Agenda Item No: 25
 Supplement No. _____
 Meeting Date: June 19, 2012

Board Agenda Item

Subject: Acceptance of Gifts

Department: Fiscal Services

Action Requested:

The Board is asked to accept the following donations to the District's schools/programs.

Discussion:

<u>Item</u>	<u>Donor</u>	<u>School/Program</u>	<u>Value</u>	<u>Date Received</u>
Gift Donation (9 books)	Stacy Jelani	Foulks Ranch Elementary School	\$47.50	04/27/12
Cash donation	Kiwanis Club of Rancho Murieta	Albani Middle School (Projector & Bulbs)	\$620.00	04/30/12
Cash Donation	Kerr Booster Club	Kerr Middle School (Teacher Substitutes for competitions)	\$168.82	05/10/12
Cash Donation	Kerr Booster Club	Kerr Middle School (Physical Education)	\$173.00	05/10/12
Cash Donation	Vanessa Herburger in honor of Aurora Herburger	EGUSD (Superintendent's Discretion)	\$20.00	05/14/12
Cash Donation	University of California, Berkeley	Valley High School	\$500.00	05/21/12
Cash Donation	Carol Y. Jaramillo	Castello Elementary School	\$300.00	05/21/12
Cash Donation	Toby & Sue Johnson	Toby Johnson Middle School	\$1,000.00	05/23/12
Cash Donation	Kerr Booster Club	Kerr Middle School (Recognitions/Awards)	\$65.00	05/24/12
Cash Donation	Kerr Booster Club	Kerr Middle School (Band)	\$325.00	05/24/12
Cash Donation	Wells Fargo Foundation Matching Gift Program	Kerr Middle School	\$25.00	05/24/12
Cash Donation	NCS Pearson - National Field Test of the Verbal & Mathematical Reasoning Test (VRMT-12)	Florin High School	\$2,144.00	06/01/12
Cash Donation	Intel Volunteer Grant (Volunteer Matching Funds)	Sunrise Elementary (Principal's Discretion)	\$17,070.00	06/04/12

Prepared By: Carrie Hargis *Carrie Hargis*

Division Approval:

Rich Fagan *Rich*

Prepared By: _____

Superintendent Approval:

Steven M. Ladd, Ed.D. *[Signature]*

Agenda Item No. 26

Board Agenda Item

Supplement No. _____

Meeting Date June 19, 2012**Subject:**Department: PreK-6 Education**2012-2013 Head Start Preschool Contract and Resolution****Action Requested:**

The Board of Education is requested to approve the Contract Resolution between Elk Grove Unified School District and the Sacramento Employment and Training Agency (SETA) for the 2012-2013 school year.

Discussion:

The Head Start program will service 420 children in the Elk Grove Unified School District in 2012-2013. The Head Start contract will provide funds to operate Head Start classes at the following sites:


- Maeola Beitzel Elementary (20 children)
- William Daylor Continuation High School (20 children)
- Florin Elementary (40 children)
- Franklin Elementary (20 children)
- Samuel Kennedy Elementary (40 children)
- Florence Markofer Elementary (40 children)
- James McKee Elementary (40 children)
- Prairie Elementary (80 children)
- David Reese Elementary (80 children)
- John Reith Elementary (20 children)
- Union House Elementary (20 children)

The contract amount is \$2,709,186.

The Board of Education is requested to approve the attached resolution authorizing the Superintendent's/Delegate's signature on the Head Start Contract for 2012-2013.

Financial Summary:

There is no cost to the district.

Prepared By: Claudia Charter Division Approval: Donna Cherry Prepared By: Bob Roe Superintendent's Approval: Steven M. Ladd, Ed.D. 

BE IT FURTHER RESOLVED THAT the following individuals comprise the entire
Governing Body of DELEGATE:

	<u>Name</u>	<u>Address</u>	<u>City, Zip Code</u>
1.	<u>Jeanette J. Amavisca</u>	<u>9510 Elk Grove -Florin Road</u>	<u>Elk Grove 95624</u>
2.	<u>Pollyanna Cooper-LeVangie</u>	<u>9510 Elk Grove -Florin Road</u>	<u>Elk Grove 95624</u>
3.	<u>Priscilla S. Cox</u>	<u>9510 Elk Grove -Florin Road</u>	<u>Elk Grove 95624</u>
4.	<u>Jacob L. Rambo</u>	<u>9510 Elk Grove -Florin Road</u>	<u>Elk Grove 95624</u>
5.	<u>William H. Lugg, Jr.</u>	<u>9510 Elk Grove -Florin Road</u>	<u>Elk Grove 95624</u>
6.	<u>Chet Madison, Sr.</u>	<u>9510 Elk Grove -Florin Road</u>	<u>Elk Grove 95624</u>
7.	<u>Al Rowlett</u>	<u>9510 Elk Grove -Florin Road</u>	<u>Elk Grove 95624</u>
8.	<u></u>	<u></u>	<u></u>
9.	<u></u>	<u></u>	<u></u>

AND BE IT FURTHER RESOLVED that the authority conferred pursuant to this
resolution and the representations contained herein shall remain in full force and effect until
written notice of the revocation thereof shall have been received by SETA.

I, Dr. Steven M. Ladd, Superintendent,
(Name) (Title)
of Elk Grove Unified School District, a California
(Name of Entity)
local governmental entity, do hereby certify and declare that the foregoing is a full, true and
complete copy of a resolution duly passed and adopted by the Governing Body of _____
Elk Grove Unified School District at a meeting of said Body duly and regularly called,
(Name of Entity)
noticed and held, at 9510 Elk-Grove Florin Road, on the 19th day of
June 2012,
at which meeting a quorum of the Governing Body was present and a majority of which quorum
voted in favor of said resolution, and that said resolution is now in full force and effect.

1
2 IN TESTIMONY WHEREOF, I have hereunto set my hand this 19th day of June 2012.
3

4 Elk Grove Unified School District
5 (Name of Entity)

6 BY: _____
7 (Signature)

8 Steven M. Ladd, Ed. D.
9 (Typed Name)

10 Superintendent
11 (Title)

Agenda Item No. 27

Board Agenda Item

Supplement No. _____

Meeting Date June 19, 2012**Subject:**Department: Curriculum/Professional Learning**New High School Course****Action Requested:**

The Board of Education is asked to approve the following new high school course.

Discussion:

The following course has undergone review and approval by the appropriate steering committee, the Curriculum Standards Committee, and has the support of principals.


Valley High School, Health TECH Academy**Health TECH Internship.** (Grades 11-12, 5 Credits)

This course provides students with a variety of skills and opportunities related to healthcare. The internship can be taken during any class period with some projects and training completed outside the school day. Students in this course will run the Health TECH Academy newsletter, manage the annual Health and Fitness Expo and academy events, and work with professionals to find internships, community service opportunities, and other forms of assistance for the academy. Students will serve as peer coaches, helping academy students with tutoring or conflict resolution as needed. Students will also become familiar with all health screenings and trainings offered and will help assess/train other academy students. Finally, Health TECH Internship students will take their skills to the community by offering screenings at appropriate venues. This course is one means through which students can satisfy the work-based learning requirement for the Health TECH Academy.


Pre-Requisite: Admission to the Health TECH Academy

Financial Summary:

If approved, this course will be offered using existing FTE.

Prepared By: Anne Zeman, Ed.D. Division Approval: Mark Cerutti 

Prepared By: _____

Superintendent's Approval: Steven M. Ladd, Ed.D. 

Board Agenda Item

Supplement No. _____

Meeting Date June 19, 2012**Subject:**Department: Curriculum/Professional Learning**Textbooks/Instructional Materials Approval****Action Requested:**

The Board of Education is requested to adopt the following textbooks/instructional materials.

Discussion:

The following textbooks/instructional materials have been reviewed by the appropriate committees and are being submitted to the Board of Education for approval.

BASIC

1. *The Joy Luck Club*; Copyright 1989 by Amy Tan, Published by Ballantine Books (APEX English, Grade 10)
2. *AP Edition Campbell Biology, Ninth Edition*; Copyright 2011, Pearson Education, Inc. (AP Biology, Grades 11-12)

SUPPLEMENTAL

3. *Longman Advanced American Dictionary, 2nd Edition*; Copyright 2007, Pearson Education Limited (ELD Students, Grades 9-12)
4. *Government Alive! Power, Politics, and You*, Copyright 2009, Teachers' Curriculum Institute (Introduction to Political Science, Grades 9-12)

Financial Summary:

Sites may opt to use site funds to purchase the supplemental textbook(s)/instructional material(s).

Prepared By: Anne Zeman, Ed.D.  Division Approval: Mark Cerutti Prepared By: _____ Superintendent's Approval: Steven M. Ladd, Ed.D. 

Board Agenda Item

Subject:

Agreement for Special Services

Department: Finance & School Support**Action Requested:**

The Board is requested to approve the attached agreement with School Services of California (SSC) concerning Fiscal Budget Services.

Discussion:

The district receives ongoing fiscal information from SSC that is integral to our budgeting process. The specific services received are enumerated below. The contract renewal will provide services for one additional year.

The amount to be paid to SSC is \$2,220 annually plus expenses which is payable at \$185 per month, for the following services for the period from July 1, 2012 through June 30, 2013:

1. Delivery of one copy of each edition of the *Fiscal Report* and one copy of the booklet *Analysis of the Governor's Proposals for the State Budget and K-12 Education*;
2. Provide the option to receive information on SSC's Internet Web Site;
3. Provide an analysis of all major school financial/fiscal legislation and reporting on its legislative/executive branch progress;
4. Eight (8) hours of services annually as the District directs on fiscal issues;
5. Preliminary school district revenue limit worksheets for use in developing annual budgets; and
6. Participation at the Consultant's client rate at the Consultant's school finance conferences and workshops.

Financial Summary:

The contract amount is included in the 2012-13 budget.

Prepared By: Rich FaganDivision Approval: Rich Fagan 

Prepared By: _____

Superintendent Approval: Steven M. Ladd, Ed.D. 

AGREEMENT FOR SPECIAL SERVICES
Fiscal Budget Services

This is an agreement between the **ELK GROVE UNIFIED SCHOOL DISTRICT**, hereinafter referred to as "Client," and **SCHOOL SERVICES OF CALIFORNIA, INC.**, hereinafter referred to as "Consultant," entered into as of July 1, 2012.

RECITALS

WHEREAS, the Client needs assistance regarding issues of school finance, legislation, school budgeting, and general fiscal issues; and

WHEREAS, SCHOOL SERVICES OF CALIFORNIA, INC., is professionally and specially trained and competent to provide these services; and

WHEREAS, the authority for entering into this agreement is contained in Section 53060 of the Government Code and such other provisions of California law as may be applicable;

NOW, THEREFORE, the parties to this agreement do hereby mutually agree as follows:

1. Consultant agrees to perform such duties relating to issues of school finance, including:
 - a. Delivery of "one copy" of each edition of the *Fiscal Report* containing information on issues of school finance, budgets, or practices that impact school district fiscal policies and one copy of the booklet *Analysis of the Governor's Proposals for the State Budget and K-12 Education*.
 - b. The option to the Client of receiving information on Consultant's Internet website regarding major school finance and policy issues.
 - c. An analysis of all major school finance/fiscal legislation and reporting on its legislative/executive branch progress.
 - d. Eight (8) hours of service annually as the Client directs on fiscal issues, including analysis of specific revenue or expenditure issues, analysis of specific legislative or regulatory issues, and a "quick query" service to provide telephone response to specific fiscal questions of the Client. Services for which the base service hours may not be used include mandate claims assistance, Client-specific economy, efficiency or management consulting services, including, but not limited to efficiency or management studies, demographic or school facility studies, special education studies, fiscal health analysis, and/or an indepth budget review, direct collective bargaining or fact-finding assistance; fiscal analysis for purposes of collective bargaining; legislative representation or advocacy; appearance as an expert witness; provision of depositions or declarations for district legal issues; or, major customized research projects or studies.
 - e. Preliminary school district calculation of the base revenue limit using the online base revenue limit calculator on the School Services of California's website for use in determining the base revenue limit as soon after the budget is adopted based on the major annual school finance legislation.

ELK GROVE UNIFIED SCHOOL DISTRICT

- f. Participation at the Consultant's client rate at the Consultant's school finance conferences and workshops.
2. The Client agrees to pay to Consultant for services rendered under this agreement:
 - a. \$2,220 annually, plus expenses, or payable at \$185 per month, plus expenses, for the services listed in Item 1 above, upon billings from Consultant.
 - b. For all requested services in excess of eight (8) direct service hours as indicated in Item 1-d above in a 12-month period, the applicable hourly rate for the person(s) performing the services shall apply.
 - c. "Hours" are defined as hours of direct service to the Client, as well as reasonable travel time to and from the Client's site.
 - d. "Expenses" are defined as actual, out-of-pocket expenses, such as transportation, lodging, meals, shipping, and duplication (other than for one copy of the *Fiscal Report*).
3. The term of this contract shall be for the period of one year, beginning July 1, 2012, and terminating June 30, 2013. This agreement may be terminated by either party prior to June 30, 2013 on thirty (30) days' written notice. In the event that the Client elects to terminate services at the end of the agreement, the client shall give a 30 day written notice of non renewal. Consultant will provide continuing services for 90 days after the expiration date of the agreement or until the Client provides written notice. The client is responsible for these accrued charges and Consultant may bill these additional days. In case of cancellation, the Client shall be liable for any costs accrued to the date of cancellation under Item 2 above.
4. It is expressly understood and agreed to by both parties that Consultant, while carrying out and complying with any of the terms and conditions of this agreement, is an independent contractor and is not an employee of the Client.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed as indicated below:

BY: _____

DATE: _____

Elk Grove Unified School District

BY: _____

DATE: May 18, 2012

JOHN D. GRAY
Vice President
School Services of California, Inc.

Board Agenda Item

Subject:Division: **Facilities and Planning**

Classroom Modifications at Various Sites – Application #02-112467
Award of Contract – Lease/Leaseback (LLB)

Action Requested:

The Board of Education is asked to (1) authorize the Administration to sign all documents and contracts pertaining to this work.

Discussion:

On April 5, 2011, the Board of Education authorized the Administration to proceed with the work required for Phase I of the small classroom modifications including additional portable classrooms, appropriate connections, and pad preparation. Some sites also required upgrades to parking and sidewalks to accommodate current ADA requirements.

Administration is now prepared to proceed with Phase II of this important project and plans and specifications have been prepared to expand the size of various small classrooms for the 2012/2013 school year at:

John Ehrhardt Elementary School
 Union House Elementary School

Robert J. Fite Elementary School

This contract is in addition to the contract previously authorized by the Board of Education on June 5, 2012 for the following projects:

Maeola R. Beitzel Elementary School
 Florin Elementary School
 Foulks Ranch Elementary School
 Herman Leimbach Elementary School

Charles E. Mack Elementary School
 Barbara Comstock Morse Elementary School
 Mary Tsukamoto Elementary School

Two separate contracts are required due to separate Division of State Architect approval dates and corresponding submittals.

The Administration has negotiated a Guaranteed Maximum Price (GMP) with Bobo Construction, Inc., to perform this work and recommends a LLB contract with Bobo Construction, Inc., for a GMP of \$973,039.00.

Financial Summary:

Funded with Capital Facility Funds.

Prepared By: WH Brad Parsons BP Division Approval: Robert Pierce RP
 Prepared By: FOR Lee Leavelle Superintendent Approval: Steven M. Ladd Ed.D. SL

Board Agenda Item**Subject:**Division: **Facilities and Planning**

**Elk Grove Charter School, Public Address (PA) System
Award of Contract**

Action Requested:

The Board of Education is asked to (1) review the tabulation of bids, (2) award a contract to the lowest responsible and responsive bidder, (3) authorize the Administration to sign all documents and contracts pertaining to this work, and (4) authorize the Administration to proceed with the next lowest responsible bidder should a fully endorsed contract with the low bidder, accompanied by certification of the necessary bonds, not be obtained.

Discussion:

During the design of the Charter School a PA system was not included in the project due to the nature of their operations, size of the building and relatively small site. After occupying the new facility the site staff have recognized a need for a PA system for the interior of the building as well as the exterior of the campus and has now requested that a PA system be installed. Project savings will be utilized to fund the new PA system. It is important to point out that the facility was funded under a "specialty" charter school funding program through the Office of Public School Construction (OPSC), which unlike typical OPSC funding programs the charter school program does not have a project savings provision. Therefore any unspent and remaining funds must be returned to the OPSC.

Plans and specifications have been developed making use of the existing infrastructure to include a PA system.

The Administration received and opened two (2) bids on June 6, 2012, at 2:00 p.m. **See attachment for the tabulation of bids.** Bockmon & Woody Electric Company, Inc., submitted the lowest base bid.

The Administration recommends the award of contract to Bockmon & Woody Electric Company, Inc., for the base bid of \$29,629.00.

Financial Summary:

Funded with State School Building Funds, Measure A proceeds, and/or Developer Fees.

Prepared By: Josef Tavora  Division Approval: Robert Pierce 

Prepared By: Lee Leavelle  Superintendent Approval: Steven M. Ladd Ed.D. 

BID SUMMARY

Bids Opened: June 6, 2012 @ 2pm

[illegible]

Board Agenda Item

Subject:Division: **Facilities and Planning**

**Running Paths and Concrete Work at Various Sites
Change Order No. 1**

Action Requested:

The Board of Education is asked to (1) approve Change Order No. 1 with Biondi Paving, Inc., and (2) authorize a district representative to sign the approved change order.

Discussion:

On May 8, 2012, the Board of Education awarded a contract to Biondi Paving, Inc., for the Running Paths and Concrete Work at Various Sites project. Change Order No. 1 consists of six (6) items. The complete change order, with backup, is on file in the Facilities and Planning office for review.

Item #1

All Concrete Running Paths: Increase running path thickness to 6" and eliminate aggregate base and thickened edges to improve structural integrity and simplify construction method. Requested by Elk Grove Unified School District.

NO CHANGE**Item #2**

Jessie Baker Elementary School: Provide two (2) dry wells, three (3) drain inlets, and twenty-two (22) 10' section of drain pipe to remedy existing drainage problems. Requested by Elk Grove Unified School District.

ADD**\$9,940.00****Item #3**

Jessie Baker Elementary School: Increase width of track from 10' to 12' including increased excavation, increased paving sections, increased synthetic surfacing, increased striping, and delete 2' of new sod to accommodate site program. Requested by Elk Grove Unified School District.

ADD**\$14,522.00****Item #4**

Jessie Baker Elementary School: Provide concrete access to bench pad at east side of track due to unforeseen conditions. Requested by Elk Grove Unified School District.

ADD**\$500.00****Financial Summary:**

Funded with Excess Tax Proceeds.

Prepared By: Brad Parsons *BP* Division Approval: Robert Pierce *RP*
Prepared By: Lee Leavelle *LL* Superintendent Approval: Steven M. Ladd, Ed.D. *SL*

<u>Item #5</u>	<u>Jessie Baker Elementary School:</u> Delete concrete curbs and provide redwood headers to accommodate native turf in field. Requested by Elk Grove Unified School District.	ADD	(\$7,104.00)
<u>Item #6</u>	<u>Jessie Baker Elementary School:</u> Delete ECS irrigation system and associated 1" extra depth of paving to retain existing turf. Revise and restore existing irrigation system and provide temporary fencing to protect existing turf. Requested by Elk Grove Unified School District.	ADD	(\$293,475.00)

Attachment A provides detailed information on distribution of change order requests between Architect and District. Change Order No. 1 changes the contract amount of \$1,491,258.00 by (\$275,617.00) to \$1,215,641.00.

CONSTRUCTION COST SUMMARY
CHANGE ORDER NO. 1

PROJECT: Running Paths and Concrete Work at Various Sites
ARCHITECT: MTW Group
CONTRACTOR: Biondi Paving, Inc.
CONTRACT AMOUNT: \$1,491,258.00

ARCHITECT INITIATED OR REQUESTED						EXISTING CONDITIONS		DISTRICT REQUESTED	
	Architectural	Electrical	Mechanical	Structural	Civil	Code		Additions	Credits
BUILDING	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
SITE		0.00	0.00	0.00	0.00	0.00	10,440.00	21,431.00	(307,488.00)
SITE AND BUILDING	0.00	0.00	0.00	0.00	0.00	0.00	10,440.00	21,431.00	(307,488.00)
TOTALS							\$10,440.00	(\$286,057.00)	

SUMMARY:		Contract completion date: November 5, 2012	
Original Contract Amount	\$1,491,258.00	Time extension:	0 days
Net Change Orders Architect Requested	0.00	New contract completion date: November 5, 2012	
Net Change Orders Existing Conditions	10,440.00		
Net Change Orders District Requested	(286,057.00)		
Total Change Order 1	(275,617.00)		
Total Current Contract Amount	\$1,215,641.00		

Board Agenda ItemMeeting Date June 19, 2012**Subject:**Division: Facilities and Planning

Approve Option of One-Year Extension to the Lease Agreement with Bartholomew Associates for a portion of Elk Grove Shopping Center to continue the use for the Technology Services and Research and Evaluation Departments.

Action Requested:

The Board of Education is asked to (1) approve an option for a one-year extension to the Lease Agreement dated June 7, 2001 with Bartholomew Associates at the Elk Grove Shopping Center; and (2) authorize Robert Pierce, Associate Superintendent, Facilities and Planning to finalize and execute the 2012/13 Lease extension on behalf of the District.

Discussion:

On June 7, 2001, the Board of Education approved the Lease Agreement to lease property from Bartholomew Associates at the Elk Grove Shopping Center to continue the use for the Technology Services and Research and Evaluation Departments.

At this time Administration wishes to extend the lease for an additional one (1) year pursuant to the extension provisions in the original lease while all other terms of the original agreement remain intact for 2012/13.

Financial Summary:

Approximately \$24,787.00 per month.

Prepared By: _____ Division Approval: Robert Pierce Prepared By: _____ Superintendent Approval: Steven M. Ladd, Ed.D. 